



## COUNCIL

**IMPORTANT:** The Council fully recognises and respects the role and importance of democratic meetings and is committed to protecting the health and safety of Elected Members and Officers who participate. Risk assessments are undertaken in advance of each meeting, and are reviewed on an ongoing basis.

Social distancing measures will be in place throughout the meeting, however it is important that you do not attend the meeting if you or anyone in your household are required to self-isolate due to receiving a positive COVID-19 test result, having symptoms of COVID-19, or having been told that you have been in contact with someone who has tested positive for COVID-19.

For the purpose of public transparency and accountability, the meeting will be live streamed online. The livestream can be accessed here:

<https://event.sparq.me.uk/ryedale-district-council-9th-september/>

For health and safety reasons and in accordance with our risk assessment, members of the public are asked to follow the meeting via this method rather than attending in person. If you are unable to access the meeting this way, please contact us so that we can explore whether any safe alternative option is possible. The media will be able to report on proceedings from the live stream.

## Council Summons and Agenda

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You are hereby summoned to attend an **Ordinary Meeting of Ryedale District Council** to be held in **The Main Hall, Milton Rooms, Malton** on **Thursday, 9 September 2021** at **6.30 pm** in the evening for the transaction of the following business:

### Agenda

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1 **Emergency Evacuation Procedure**

The Chair to inform members of the public of the emergency evacuation procedure.

2 **Apologies for absence**

3 **Public Question Time**

4 **Minutes** (Pages 5 - 16)

To approve as a correct record the minutes of the Ordinary Meeting of Council held on 13 July 2021 and reconvened on 22 July 2021.

5 **Urgent Business**

To receive notice of any urgent business which the Chair considers should be dealt with at the meeting as a matter of urgency by virtue of Section 100B(4)(b) of the Local Government Act 1972.

6 **Declarations of Interest**

Members to indicate whether they will be declaring any interests under the Code of Conduct.

Members making a declaration of interest at a meeting of a Committee or Council are required to disclose the existence and nature of that interest. This requirement is not discharged by merely declaring a personal interest without further explanation.

7 **Announcements**

To receive any announcements from the Chair, the Leader and/or the Head of Paid Service.

8 **To Receive any Questions submitted by Members Pursuant to Council Procedure Rule 10.2 (Questions on Notice at Full Council)**

9 **To Dispose of Business not dealt with at the Previous Ordinary Meeting of Council**

a **Proposed by Councillor P Andrews and seconded by Councillor Burr**

*“Pursuant to Council Procedure Rule 23.1, the Council hereby suspends Council Procedure Rule 11.4 to allow the full debate of the following motion at the meeting, without standing referred to Committee.”*

b **Proposed by Councillor P Andrews and seconded by Councillor Burr**

*“The Council resolves to engage consultants to take the Council and the public through the revision of the Ryedale Plan, the Consultant to be appointed by the Programme Director (Economic Development, Business and Partnerships) in consultation with the Chairs of Planning and P&R.”*

10 **Appointment of the Chair of Policy and Resources Committee**

To appoint a Chair of the Policy and Resources Committee for the remainder of the municipal year.

11 **Appointment of a Representative to the North Yorkshire County Council Scrutiny of Health Committee**

To appoint a representative to the North Yorkshire County Council Scrutiny of Health Board for the remainder of the municipal term.

12 **Appointment of a Representative to the Safer Ryedale Delivery Team**

To appoint a representative to the Safer Ryedale Delivery Team for the remainder of the municipal term.

- 13 **To consider for Approval the Recommendations in respect of the following Part 'B' Committee Items:**

**Policy and Resources Committee - 29 July 2021**

- a **Minute 38 - Revenue and Capital Budget Monitoring - Q1 2021/22** (Pages 17 - 30)
  - b **Minute 39 - HR Policy Revision - Local Government Pension Scheme Employer Discretions, Family Leave Policy and Probation Policy** (Pages 31 - 98)
- 14 **Motions on Notice Submitted Pursuant to Council Procedure Rule 11**
- 15 **Any other business that the Chair decides is urgent**



Stacey Burlet  
Chief Executive

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## Council

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Minutes of Proceedings

At the **Ordinary Meeting of the District Council of Ryedale** held in the **Main Hall, Milton Rooms, Malton** on **Tuesday 13 July 2021 (and reconvened on 22 July 2021)**

## Present

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Councillors Joy Andrews, Paul Andrews, Arnold (22.07.21), Bailey, Brackstone (13.07.21), Burr MBE (13.07.21), Clark, Cleary (13.07.21), Cussons MBE, Delaney (13.07.21), Docwra, Duncan, Frank (Chair), Garbutt Moore (Vice-Chair), Goodrick (13.07.21), Graham, Keal (13.07.21), King, MacKenzie, Mason (13.07.21), Middleton (13.07.21), Oxley (13.07.21), Potter, Raper (13.07.21), Riby, Thackray (13.07.21) and Wass (13.07.21)

## In Attendance

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Stacey Bulet, Simon Copley, Alison Godfrey (13.07.21), Anton Hodge (22.07.21), Gary Housden (13.07.21), Lisa Hutchinson (13.07.21), Nigel McCloy (13.07.21), Christine Phillipson, Haroon Rashid (13.07.21), Kim Robertshaw (13.07.21), Phillip Spurr (22.07.21), Amy Thomas (13.07.21), Margaret Wallace (13.07.21) and Louise Wood

## Minutes

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### 14 Apologies for absence

Apologies were received from Councillors Arnold, Hope, Raine and Windress on 13 July 2021. Apologies were received from Councillors Brackstone, Burr, Cleary, Goodrick, Hope, Keal, Mason, Middleton, Raine, Raper, Thackray, Wass and Windress on 22 July 2021.

### 15 Public Question Time

There were no public questions.

### 16 Minutes of the Ordinary Meeting of Full Council held on 15 April 2021 (and reconvened on 20 April 2021)

The minutes of the Ordinary Meeting of Council held on 15 April 2021 (and reconvened on 20 April 2021) were presented.

#### Resolved

That the minutes of the Ordinary Meeting of Council held on 15 April 2021 (and reconvened on 20 April 2021) be approved and signed as a correct record.

The resolution was carried by general affirmation.

### 17 Urgent Business

There were no items of urgent business.

### 18 Declarations of Interest

The Chair advised that the declarations of all Members of North Yorkshire County Council would be taken as given.

Councillor Burr declared a personal, pecuniary and prejudicial interest in item 12b relating to car parking charges, as an owner of commercial properties in Ryedale. Councillor Burr left the meeting and did not participate in the debate or the vote on this item.

Councillor King declared a personal non-pecuniary interest in item 13d (Motion on Notice proposed by Councillor Duncan and seconded by Councillor Graham) as the Chair of the Milton Rooms Trustees. Councillor King left the meeting and did not participate in the debate or the vote on this item.

Councillor Garbutt Moore declared a personal non-pecuniary interest in item 13d (Motion on Notice proposed by Councillor Duncan and seconded by Councillor Graham) as the Ryedale District Council Representative on the Milton Rooms Management Committee. Councillor Garbutt-Moore left the meeting and did not participate in the debate or the vote on this item.

## 19 **Announcements**

The Chair announced that she would be taking the agenda in the following order:

- 1 Emergency Evacuation Procedure
- 2 Apologies for absence
- 3 Public Question Time
- 4 Minutes
- 5 Urgent Business
- 6 Declarations of Interest
- 7 Announcements
- 12 To consider for Approval the Recommendations in respect of the following Part 'B' Committee Items
- 14 Exempt Information
- 15 To consider for Approval the Recommendations in respect of the following exempt part 'B' Committee Items
- 9 Appointment of a Substitute on the Policy and Resources Committee from the Independent Group
- 10 Appointment of Staff Champion
- 11 Appointment of a Representative to the Police, Fire and Crime Panel
- 13 Motions on Notice Submitted Pursuant to Council Procedure Rule 11
- 8 To receive any Questions submitted by Members Pursuant to Council Procedure Rule 10.2 (Questions on Notice at Full Council)

At the reconvened meeting on 22 July, the Head of Paid Service read extracts from a letter received from the Ministry of Housing, Communities and Local Government, received at 7pm on 21 July in relation to the decision regarding Local Government Reform.

- 20 **To Receive any Questions submitted by Members Pursuant to Council Procedure Rule 10.2 (Questions on Notice at Full Council)**
- 21 **To Councillor Clark, Chair of the Policy and Resources Committee, from Councillor Docwra**

*“Can the Chairman of Policy & Resources Committee please confirm when staff whose usual place of work is Ryedale House will return to work there?”*

Councillor Clark, Chair of Policy and Resources replied:

*“I’ve already answered one question this evening without moving my lips in any sense whatsoever, and unfortunately the answer is no I cannot.”*

Councillor Docwra then asked the following supplementary question:

*“Slightly taken aback by that Councillor Clark, could you possibly then, as a supplementary, tell me will the return to work arrangements be coming into force any time in the future and will it apply to the senior management board as well who should be visible in the building and here to lead their teams by example when their teams return?”*

Councillor Clark then replied:

*“Thank you Councillor Docwra, I think you will find that the direction and management of the staff, and I don’t like that term, but it’s what we’ve got, at Ryedale House is the responsibility of the Head of Paid Service, the Chief Executive and does not fall under the purview of P & R.”*

**22 To Councillor Clark, Chair of the Policy and Resources Committee, from Councillor Mackenzie**

*“Can the Chairman of Policy & Resources Committee please provide Council with a dated copy of a climate change impact assessment for the Railway Tavern project?”*

Councillor Clark, Chair of Policy and Resources replied:

*“Thank you Councillor Mackenzie, I would be delighted to do that if there was one, but there isn’t”.*

Councillor Mackenzie then asked the following supplementary question:

*“This Council agreed to release extra funding for the Railway Tavern subject to a climate change impact assessment. Now it’s in my ward and I see that work has started. Can I ask where we are at with this, have we got one planned or commissioned?”*

Councillor Clark then replied:

*“Thank you Councillor Mackenzie, the first part of the answer was 100% accurate, but this part is answering the question in greater depth for you. It was planned and hoped that a carbon assessment would be completed and presented to Policy and Resources in July, i.e. next week, so yes we might have had it, we might not have had it, however it’s taken longer than that for the Council to obtain quotes from an external body, we had to find bodies that were capable of doing it. The good news is there is a body that is doing this for us, on this, and is looking at things for us and that may mean that in future, when we have similar things that we need to do, we’ve got the people there that would be able to do it. I’m sorry that answer is not what I would have liked to have*

*received if I had been in your shoes back in February when we were calling for all of this.”*

**23 To Councillor Clark, Chair of the Policy and Resources Committee, from Councillor Delaney**

*Can the Chairman of Policy & Resources Committee please provide an update on delivery of the free car parking as agreed within the Council’s Car Parking Strategy?”*

This question was withdrawn.

**24 To Councillor Clark, Chair of the Policy and Resources Committee, from Councillor Graham**

*“Can the Chairman of Policy and Resources Committee please release the minutes of the first meeting of the Joint Works Group to all Councillors?”*

Councillor Clark, Chair of Policy and Resources replied:

*“Thank you Councillor Graham, a very useful question, but no.”*

Councillor Graham then questioned whether the decision of Council was being actioned.

Councillor Clark then replied:

*“Thank you Councillor Graham, your supplementary leaves me a little confused in relation to your original question. If you’re telling me this body hasn’t met, from what you’re saying and your experience of it, then how is it you are asking for the minutes? But I’ll ignore that. I do know somebody once who wrote the minutes for a meeting that didn’t happen so maybe this fits into that category. I believe we have to get that works Council there, and done properly, and it appears not to have quite come back in the shape and form that Council agreed. That will hopefully be discussed by Group Leaders to see if we can make it happen. I want it to happen, clearly from the sound of what you’re saying, you want it to happen, but it can’t just happen if happening means it’s not as Council agreed.”*

**25 To Councillor Clark, Chair of the Policy and Resources Committee, from Councillor Duncan**

*“Can the Chairman of Policy and Resources Committee please confirm the dates when the urgently-established Livestock Market Working Party has met?”*

Councillor Clark, Chair of Policy and Resources replied:

*“Thank you Councillor Duncan. The Livestock Working Party, and I believe you were at the meeting where we didn’t have the capacity to hold a working party, when I raised it in February, sometime around then, and as a result of that, I’ve been pushing to get resources in place. We have had one meeting and we have got, I don’t know whether you have seen it or not, the paperwork for P&R shows that we are looking to get resources to cover that gap.”*

Councillor Duncan then asked the following supplementary question:

*“In summary, the thread through all of these questions, we haven’t had the Livestock Working Party meet for many weeks, it’s been extremely delayed, we haven’t had the Joint Works Group meet in line with the wishes of the Council, we haven’t had a climate change impact assessment, which you called for, and which this Council called for, until construction has started, work has already begun. We now also have our staff left in limbo, where you are shirking responsibility and refusing to even give an answer to a very simple question about when staff might be able to return to Ryedale House. The thread that runs throughout all of this, is that you are refusing to take responsibility, so my question Councillor Clark to you is will you start taking responsibility for the actions of this Council and for the will of this Council and ensure it is implemented ?”*

Councillor Clark then replied:

*“If that’s the approach, you can’t start something that you are already doing.”*

**26 Appointment of a Substitute on the Policy and Resources Committee from the Independent Group**

It was moved by Councillor Burr and seconded by Councillor Paul Andrews that Councillor Paul Andrews be appointed as substitute on the Policy and Resources Committee from the Independent Group.

**Resolved**

That Councillor Paul Andrews be appointed as substitute on the Policy and Resources Committee from the Independent Group.

The motion was carried by general affirmation.

**27 Appointment of Staff Champion**

It was moved by Councillor Docwra and seconded by Councillor Bailey that Councillor Duncan be appointed as Staff Champion.

Upon being put to the vote, the motion was carried.

**Resolved**

That Councillor Duncan is appointed as Staff Champion.

**Voting record**

Unanimous

**Recorded vote**

For

Councillors J Andrews, P Andrews, Bailey, Brackstone, Burr, Clark, Cleary, Cussons, Delaney, Docwra, Duncan, Frank, Garbutt-Moore, Goodrick, Graham, Keal, King, Mackenzie, Mason, Middleton, Oxley, Potter, Riby, Thackray and Wass

**28 Appointment of a Representative to the Police, Fire and Crime Panel**

It was moved by Councillor Keal and seconded by Councillor Frank that Councillor Burr be appointed as the representative on the Police, Fire and Crime Panel.

It was moved by Councillor Docwra and seconded by Councillor Duncan that Councillor Cleary be appointed as the representative on the Police, Fire and Crime Panel.

### **Resolved**

That Councillor Burr be appointed as the representative on the Police, Fire and Crime Panel.

### **Voting record**

14 for Councillor Burr

11 for Councillor Cleary

#### **Recorded vote**

##### Councillor Burr

Councillors J Andrews, P Andrews, Brackstone, Burr, Clark, Cussons, Frank, Keal, Mason, Middleton, Potter, Riby, Thackray and Wass

##### Councillor Cleary

Councillors Bailey, Cleary, Delaney, Docwra, Duncan, Garbutt-Moore, Goodrick, Graham, King, Mackenzie and Oxley

### 29 **To consider for Approval the Recommendations in respect of the following Part 'B' Committee Items:**

### 30 **Minute 7 - Draft Ryedale Housing Strategy 2021-24**

It was moved by Councillor Clark and seconded by Councillor Burr that the following recommendation be approved and adopted:

The objectives and priorities endorsed by Policy and Resources Committee be approved.

### **Resolved**

The objectives and priorities endorsed by Policy and Resources Committee are approved.

The motion was carried by general affirmation.

### 31 **Minute 8 - Review of the Provision of 3 Hours Free Car Parking following Member Motion in April 2021**

It was moved by Councillor Clark and seconded by Councillor Joy Andrews that the following recommendation be approved and adopted:

That no changes be made to the arrangements for car parking charges in Ryedale and fees continue to be charged.

Councillor Paul Andrews proposed and Councillor Thackray seconded the following amendment:

Add:

And a report be produced to Policy and Resources Committee with proposals for implementing the recommendations of the Car Parking Working Party.

Upon being put to the vote, the amendment was carried.

**Voting record**

12 For

1 Against

12 Abstentions

**Recorded vote**

For

Councillors Joy Andrews, Paul Andrews, Brackstone, Clark, Frank, Keal, Mason, Middleton, Potter, Riby, Thackray and Wass

Against

Councillor Cleary

Abstentions

Councillors Bailey, Cussons, Delaney, Docwra, Duncan, Garbutt-Moore, Goodrick, Graham, King, Mackenzie, Oxley and Raper

Upon being put to the vote the substantive motion, as amended was carried.

**Resolved**

That no changes be made to the arrangements for car parking charges in Ryedale and fees continue to be charged and a report be produced to Policy and Resources Committee with proposals for implementing the recommendations of the Car Parking Working Party.

**Voting record**

10 For

14 Abstentions

**Recorded vote**

For

Councillors Joy Andrews, Paul Andrews, Brackstone, Clark, Frank, Mason, Potter, Riby, Thackray and Wass.

Abstentions

Councillors Bailey, Cleary, Cussons, Delaney, Docwra, Duncan, Garbutt-Moore, Goodrick, Graham, Keal, King, Mackenzie, Middleton, and Oxley.

It was proposed by Councillor Frank and seconded by Councillor Clark that Procedure Rule 8.1 be suspended to allow the meeting to continue past three and a half hours.

**Voting record**

7 For

18 Against

**Recorded vote**

For

Councillors J Andrews, P Andrews, Brackstone, Clark, Frank, Potter and Wass

Against

Councillors Bailey, Burr, Cleary, Cussons, Delaney, Docwra, Duncan, Garbutt-Moore, Goodrick, Graham, Keal, King, Mackenzie, Mason, Middleton, Oxley, Riby and Thackray

32 **Motions on Notice Submitted Pursuant to Council Procedure Rule 11**

33 **Proposed by Councillor P Andrews and seconded by Councillor Thackray**

*"This Council requires Officers to investigate options and opportunities for Member engagement in air quality work (including the work of the Ryedale District Council Air Quality Steering Group), in liaison with the County Council, and report back to the next meeting of P&R Committee."*

The motion stands automatically referred to Policy and Resources under Committee Procedure Rule 11.4.

34 **Proposed by Councillor P Andrews and seconded by Councillor Thackray**

*"The Council notes the failure to call meetings of the Flood Liaison Group over the last few years, and requires the Officers to re-establish meetings of this group with immediate effect, Council Members to report to Policy and Resources; Each political group shall be entitled to appoint one member (not limited to members of P&R)".*

The motion was withdrawn.

35 **Proposed by Councillor Riby and seconded by Councillor Burr**

*"We propose that Officers look in to options of funding to support the Kirkbymoorside / Helmsley cycle route and bring a report as soon as possible back to the Policy and Resources Committee to discuss funding options and implications."*

The motion stands automatically referred to Policy and Resources under Committee Procedure Rule 11.4.

36 **Proposed by Councillor Duncan and seconded by Councillor Graham**

*"To avoid any unnecessary delay to the Milton Rooms' development plans, Full Council delegates the decision on whether to approve the allocation of capital funding ring-fenced to the Milton Rooms to the Policy & Resources Committee meeting to be held on July 29 2021"*

Councillor Paul Andrews proposed and Councillor Burr seconded the following amendment.

Add:

*"and the Secretary of State for Communities be advised of the money the Council has ring-fenced for the Milton Rooms and be requested that, should a decision to reorganise councils in North Yorkshire be made, this money should be exempted from any order imposing a moratorium on Council spending"*

Upon being put to the vote the amendment was carried

**Voting record**

17 For

6 Abstentions

**Recorded vote**

For

Councillors J Andrews, P Andrews, Brackstone, Burr, Clark, Cleary, Cussons, Docwra, Frank, Keal, Mason, Middleton, Oxley, Potter, Riby, Thackray and Wass

Abstentions

Councillors Bailey, Delaney, Duncan, Goodrick, Graham, Mackenzie

Upon being put to the vote the substantive motion, as amended was carried.

**Resolved**

To avoid any unnecessary delay to the Milton Rooms' development plans, Full Council delegates the decision on whether to approve the allocation of capital funding ring-fenced to the Milton Rooms to the Policy & Resources Committee meeting to be held on July 29 2021 and the Secretary of State for Communities be advised of the money the Council has ring-fenced for the Milton Rooms and be requested that, should a decision to reorganise councils in North Yorkshire be made, this money should be exempted from any order imposing a moratorium on Council spending.

**Voting record**

Unanimous

**Recorded vote**

For

Councillors Joy Andrews, Paul Andrews, Bailey, Brackstone, Burr, Clark, Cleary, Cussons, Delaney, Docwra, Duncan, Frank, Goodrick, Graham, Keal, Mackenzie, Mason, Oxley, Potter, Riby, Thackray and Wass

**37 Proposed by Councillor Duncan and seconded by Councillor Goodrick**

*"This Council wishes to reaffirm the 22-5 decision taken on June 27, 2019 in relation to support for dualling the A64 between York and Scarborough, as well as other improvements in between. The Council calls on the Chairman of Policy and Resources to work with our Officers, other local authorities, business leaders and MPs to ensure dualling takes place as quickly as possible".*

The motion stands automatically referred to Policy and Resources under Committee Procedure Rule 11.4.

**38 Proposed by Councillor Duncan and seconded by Councillor Delaney**

*"In order to boost Ryedale's recycling rate, this Council calls on Policy and Resources Committee to explore:*

- *scrapping the annual fee for green waste recycling, instead providing this service to all homes in Ryedale for free;*

- *extending the time period that green waste is collected from homes each year and report its recommendations back to Full Council as soon as possible.*”

The motion stands automatically referred to Policy and Resources under Committee Procedure Rule 11.4.

The guillotine fell at 10.20pm on 13 July 2021.

The meeting was adjourned at 10.30pm on 13 July 2021 and reconvened at 6.30pm on 22 July 2021 to consider the following remaining items of business:

Agenda items 13g, 13h and 8.

**39 Proposed by Councillor P Andrews and seconded by Councillor Burr**

*“Pursuant to Council Procedure Rule 23.1, the Council hereby suspends Council Procedure Rule 11.4 to allow the full debate of the following motion at the meeting, without standing referred to committee.”*

The motion stands adjourned to 9<sup>th</sup> September 2021.

**40 Proposed by Councillor P Andrews and seconded by Councillor Burr**

*"The Council resolves to engage consultants to take the Council and the public through the revision of the Ryedale Plan, the Consultant to be appointed by the Programme Director (Economic Development, Business and Partnerships) in consultation with the Chairs of Planning and P&R."*

The motion stands adjourned to 9<sup>th</sup> September 2021.

**41 Exempt Information**

**Resolved**

To exclude the press and public from the meeting during consideration of the following item 15a (Minute 11 – Leisure Service Delivery Options) as provided by paragraph 3 of Schedule 12A of Section 100A of the Local Government Act 1972, as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).

The public interest test has been considered and, in all the circumstances of the case, the public interest in maintaining the exemption is considered to outweigh the public interest in disclosing the information.

The motion was carried by general affirmation.

**42 To consider for Approval the Recommendations in respect of the following exempt part 'B' Committee Items:**

**43 Minute 11 - Leisure Service Delivery Options**

It was moved by Councillor Clark and seconded by Councillor Joy Andrews that the following recommendation be approved and adopted:

- (i) The recommendations within the report be approved;
- (ii) The Minister be written to, to inform them of the situation regarding leisure service delivery within Ryedale.

Councillor Clark altered the motion with the consent of the meeting as follows:

Add:

Add to the arrangements in Annex A that agreement to make payments be agreed by the Programme Director for Economic Development, Business and Partnerships and the Chief Finance Officer (s151) in agreement with the Chair of Policy and Resources Committee in the month following the request for financial support.

The proposed motion by Councillor Clark and seconded by Councillor J Andrews then read:

- (i) The recommendations within the report be approved;
- (ii) Add to the arrangements in Annex A that agreement to make payments be agreed by the Programme Director for Economic Development, Business and Partnerships and the Chief Finance Officer (s.151) in agreement with the Chair of Policy and Resources Committee in the month following the request for financial support;
- (iii) The Minister be written to, to inform them of the situation regarding leisure service delivery within Ryedale.

Upon being put to the vote the motion was carried

### **Resolved**

- (i) The recommendations within the report be approved;
- (ii) Add to the arrangements in Annex A that agreement to make payments be agreed by the Programme Director for Economic Development, Business and Partnerships and the Chief Finance Officer (s151) in agreement with the Chair of Policy and Resources Committee in the month following the request for financial support;
- (iii) The Minister be written to, to inform them of the situation regarding leisure service delivery within Ryedale.

### **Voting record**

22 For

3 Abstentions

#### **Recorded vote**

##### For

Councillors J Andrews, Bailey, Brackstone, Burr, Clark, Cleary, Cussons, Delaney, Docwra, Duncan, Frank, Garbutt-Moore, Goodrick, Graham, Keal, King, Mackenzie, Mason, Oxley, Potter, Riby and Wass

##### Abstentions

Councillors P Andrews, Middleton and Thackray

44 **Any other business that the Chair decides is urgent**

There being no items of urgent business the meeting closed at 6.50pm on 22 July 2021.



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**REPORT TO:** FULL COUNCIL

**DATE:** 9 SEPTEMBER 2021

**SUBJECT:** PART 'B' REFERRALS FROM POLICY AND RESOURCES COMMITTEE ON 29 JULY 2021

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## **38 Revenue and Capital Budget Monitoring – Q1 2021/22**

Considered – report of the Chief Finance Officer (s.151)

### **Recommendation**

It is recommended that Council:

- i) Notes the contents of the report – including as updated verbally at the Committee meeting.
- ii) Notes the impact on revenues of current spending plans and that it is likely that reserves will be fully spent by March 24 unless further savings are made. This assumes that the Council will continue in its current form until at least that point. If Local Government Review happened before then, there will be additional costs arising from that which all councils will be expected to contribute to.

### **Voting record**

Unanimous

**[Note:** The report of the Chief Finance Officer (s.151) has been updated following the Policy and Resources Committee meeting on 29 July 2021 to include finalised figures which have become available following original publication.]

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<b>PART B:</b>	<b>RECOMMENDATIONS TO COUNCIL</b>
<b>REPORT TO:</b>	<b>POLICY AND RESOURCES COMMITTEE</b>
<b>DATE:</b>	<b>29 JULY 2021 <u>(UPDATED FOR FULL COUNCIL ON 9<sup>th</sup> SEPTEMBER 2021)</u></b>
<b>REPORT OF THE:</b>	<b>CHIEF FINANCE OFFICER (s151) ANTON HODGE</b>
<b>TITLE OF REPORT:</b>	<b>REVENUE AND CAPITAL BUDGET MONITORING – Q1 2021/22</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

- 1.1 The revenue budget for 2021-22 was approved by Council on 18 February 2021. This report presents the financial performance against the budget as at 30 June 2021. The report also contains an updated position on the estimated use of reserves over the next few years.
- 1.2 Due to the lead-in time required for preparing and circulating reports, at the time of the Policy and Resources meeting in July, Q1 had only just closed and therefore work was not yet complete on finalising these estimates. As discussed at this meeting, this report has been updated for Full Council consideration to include the figures.

### **2.0 RECOMMENDATION**

- 2.1 It is recommended that the Council:
- i) Notes the contents of the report.
  - ii) Notes the impact on reserves of current spending plans and that it is likely that reserves would be fully spent by March 2024 if Ryedale District Council had continued to exist. A new unitary authority across North Yorkshire will be in place from April 2023.
  - iii) Notes that Local Government reorganisation is currently underway. There will be additional costs arising from that which all councils will be expected to

contribute to. Protocols on potential spending over the transition period, which are currently being developed, may also feature.

### 3.0 REASON FOR RECOMMENDATION(S)

3.1 To ensure that budget exceptions are brought to the attention of the Council in order to approve remedial action where necessary and to inform the financial implications and impact on future years.

### 4.0 POLICY CONTEXT AND CONSULTATION

4.1 The financial position and performance against budget is fundamental to delivery of the Council's Plan, achieving value for money and ensuring financial stability.

### 5.0 REPORT DETAILS

#### General Fund (Appendix A) – Revenue Estimates

5.1 The table below sets out the summary Q1 position, with details of forecast variances included in **Appendix A**

General Fund Account – Q1 2021/22	Budget	Forecast	Variance
	£000's	£000's	£000's
Net Revenue Budget	8,577	8,574	(3)
Settlement Funding RSG/NDR	(4,136)	(4,136)	0
<b>Amount to be met from Council Tax</b>	<b>4,441</b>	<b>4,438</b>	<b>(3)</b>
Council Tax	(4,483)	(4,483)	0
Collection Fund Deficit	42	42	0
<b>Net Revenue Budget (Surplus) / Deficit</b>	<b>0</b>	<b>(3)</b>	<b>(3)</b>

5.2 The main variances are:

#### **Expenditure**

- **All Employee-related costs.** There is a £200k overspend on Streetscene relating to costs of bureau waste operatives, including covering the impact of covid self-isolation. Work is currently underway to investigate the cost pressures within the service as part of a transformation project and this will also look at the overall operating model and performance.
- **Premises-related.** There is a £36k predicted overspend on repairs at Derwent Lodge and the Traveller site at Malton due to site conditions.

## Income

- **Fees and Charges.** Car parks are currently achieving to budget and, assuming no further policy changes in year (e.g. payment holidays) it is anticipated that this will continue throughout the year. Recycling income is over-achieving (£70k over in the first quarter), and there is confidence that this will continue, as prices are buoyant. If this continues there could be up to £250k additional income. However the market has traditionally been quite volatile, so this will be closely monitored.

### Covid-19 impact on Revenue Budget

- 5.3 Forecasts have been prepared using the latest information gathered for the financial impacts monitoring returns to MHCLG and the position reported here uses the estimates for the full financial year as at the end of June.
- 5.4 Council approved additional funding from reserves of £787k to cover COVID costs as set out in the table below.
- 5.5 Estimated gross costs for the year at this stage – and assuming no continuation of these after September are also included below.

	Budget	Latest
	£000	Estimate £000
Stand-by payments	25	25
Reduction in investment income	150	150
Additional Vehicle Hire (Streetscene)	23	23
Loss of car park income	155	155
Loss of catering income	10	10
Additional finance resources	50	50
Ryecare Income	8	8
Procurement savings not achieved	50	50
Streetscene (reduction of income, offset by reduction in diesel, etc)	73	73
Customer Services Staff	90	90
COVID Grant Revenue Officers	25	25
COVID Marshall	12	14
Online meetings	25	20
Covid-secure workplace adjustments including PPE	45	45
Support for Vol and Community sector incl additional grant allocation	25	25
COVID implementation and coordination arrangements	22	22
	<u>787</u>	<u>785</u>

- 5.6 The £785k is the estimated annual gross cost for costs to be funded this year. The only additional funding provided by government to date is Contain Outbreak Management Fund of £67k and this has been fully accounted for.
- 5.7 At this stage therefore it looks like funding agreed at budget will cover the COVID costs (assuming they do not go beyond September) and this has been taken into

account in the overall Q1 figures. Any continuation beyond that, without additional budget, could result in an overspend. Further details will be considered at the Policy and Resources Committee later this month as part of the Financial Strategy.

### **Capital Programme**

- 5.8 The current approved programme is £11.3m, which includes the original budget of £9.069m approved by Council plus £2.264 carried forward from last year.
- 5.9 Within the capital programme, the main headings are shown below (a detailed breakdown is shown in **Appendix B**).
- 5.10 At Q1 the forecast is that £6.9m will be spent in year and that £4.4m will be spent next year. The majority of this slippage is on two schemes: the Industrial Units development, (£2.3m) all of which is likely to slip into 22/23, largely as a result of COVID and (ii) the Livestock market development, of which consultants' fees of £100k is anticipated in 21/22, with the remainder (£1.4m) slipping into future years. The £1.5m for this project was added into the capital programme in February and is subject to business case agreement. Until that happens, we are unable to confirm when the money will be spent.
- 5.11 £250k of the IT infrastructure budget was moved forward into 21/22 and although £195k is currently forecast to be spent in 22/23, schemes are now underway and this may change. With the need to refresh a number of core systems this area is likely to continue to be under pressure.
- 5.12 The Malton-to-Pickering Cycle Route is now shown gross in the Capital Plan – there is no further cost to the council as this is mostly grant funded.

<b>All figures are £000s</b>	<b>2021-22</b>	<b>future years</b>	<b>total</b>
Vehicle Replacement	1,788	821	2,609
IT Infrastructure	477		477
Affordable Housing	2,455	2,784	5,239
Disabled Facilities Grants	496	1,488	1,984
Community Housing Fund	289		289
Car Park Action Plan	50	100	150
Industrial Units - new development	2,290		2,290
Milton Rooms: grant towards building works	193		193
Milton Rooms: ringfenced for business case	307		307
Livestock Market	1,500		1,500
Ryedale House - Covid-safe Adjustments	55		55
Malton and Norton Infrastructure	350		350
Community Facilities in Pickering	200		200
Flooding Contingency	100		100
Milton Rooms - Property Condition	216		216
Former Waste Transfer Site	65		65
Car Parks	30		30
Street Lights	201	120	321
Other projects	272	210	482

<b>11,333</b>	<b>5,523</b>	<b>16,856</b>
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**Funded by**

External Funding	1,747	3,266	5,014
Leases/Internal borrowing	1,508	856	2,364
Capital Receipts/Debtors	37		37
Reserves	8,040	1,401	9,441
	<b>11,333</b>	<b>5,523</b>	<b>16,856</b>

**Impact on Reserves**

5.13 As reported to the Committee in June, the amount of revenue reserves as at 31.03.21 was £16.2m. Much of this has already been committed and the table below shows the expected position over the current financial year. The funding of capital programmes, including the additional projects agreed to be earmarked by Council in February, make up the largest element of the intended use of reserves and, as mentioned above, some of this could slip. However commitments intended for the current year would reduce the level of revenue reserves to 5.4m:

£000s	31.03.21	original use	capital c/fwd	credit union	original COVID	livestock market	Pickering	Milton Rooms	31.03.22
General Reserve	3,981			-500	-787				2,694
Capital Fund	5,405	-4,456	-1,577			-1,500	-200	-307	-2,635
Election Reserve	7	30							37
New Homes Bonus Reserve	3,582	0							3,582
Collection Fund Equalisation Reserve	837	-600							237
Pensions Reserve	81	225							306
Council Tax Hardship	77	-77							0
COVID grants Reserve	99	-99							0
Strategic Reserve	2,133	-965							1,169
	<b>16,204</b>	<b>-5,942</b>	<b>-1,577</b>	<b>-500</b>	<b>-787</b>	<b>-1,500</b>	<b>-200</b>	<b>-307</b>	<b>5,390</b>
<b>Capital Reserves:</b>									
Capital Receipts	421								421
<b>Total Capital Reserves</b>	<b>421</b>	<b>0</b>							<b>421</b>
<b>Total Reserves</b>	<b>16,625</b>	<b>-5,942</b>	<b>-1,577</b>	<b>-500</b>	<b>-787</b>	<b>-1,500</b>	<b>-200</b>	<b>-307</b>	<b>5,811</b>

5.14 This assumes that there will be no further deficit in 2021/22 nor any additional spend on capacity or other projects. It is extremely likely that there will be transition costs of any local government review outcome which all councils will have to contribute to.

5.15 The table below shows further expectations over the next two years, albeit before any impact of LGR:

£000s	31.03.22	31.03.23		31.03.24		31.03.25	
		In-year		In-year		In-year	
General Reserve	2,694	0	2,694	0	2,694	1	2,695
Capital Fund	-2,635	-1,166	-3,800	-125	-3,925	-110	-4,035
Election Reserve	37	-90	-53	30	-23	30	7
New Homes Bonus Reserve	3,582	0	3,582	0	3,582	0	3,582
Collection Fund Equalisation	237	-237	0	0	0	0	0
Pensions Reserve	306	273	579	-579	0		0
Council Tax Hardship	0		0				
COVID grants Reserve	0		0				
Strategic Reserve	1,169	-1,226	-57	-1,539	-1,596	-1,487	-3,083
	<b>5,390</b>	<b>-2,446</b>	<b>2,945</b>	<b>-2,213</b>	<b>732</b>	<b>-1,566</b>	<b>-834</b>

5.16 The reductions in Strategic Reserve show the impact of funding the deficit of the revenue budget, as outlined in the Financial Strategy agreed by Council in February 2020. Should funding increase or savings be found, this will reduce the call on reserves.

5.17 It should be noted that some of these reserves are earmarked for specific purposes (rather than supporting the general revenue budget or other agreed projects) and effectively this reduces the amount of funding available. The figures above also do not take account of the Financial Strategy's agreed minimum working balance of £1m. Therefore a more realistic picture is shown below:

£000s	31.03.22	31.03.23		31.03.24		31.03.25	
		In-year		In-year		In-year	
General Reserve	2,694	0	2,694	0	2,694	1	2,695
Capital Fund	-2,635	-1,166	-3,800	-125	-3,925	-110	-4,035
Election Reserve	37	-90	-53	30	-23	30	7
New Homes Bonus Reserve	3,582	0	3,582	0	3,582	0	3,582
Collection Fund Equalisation Reserve	237	-237	0	0	0	0	0
Pensions Reserve	306	273	579	-579	0		0
Council Tax Hardship	0		0				
COVID grants Reserve	0		0				
Strategic Reserve	1,169	-1,226	-57	-1,539	-1,596	-1,487	-3,083
	<b>5,390</b>	<b>-2,446</b>	<b>2,945</b>	<b>-2,213</b>	<b>732</b>	<b>-1,566</b>	<b>-834</b>
Remove							
Pensions Fund	-306		-579		0		0
Minimum Level of Reserves	-1,000		-1,000		-1,000		-1,000
Elections	-37		53		23		-7
<b>Reserves Available</b>	<b>4,047</b>		<b>1,419</b>		<b>-245</b>		<b>-1,841</b>

- 5.18 These figures show the extent of current plans and will need to be revised in the light of LGR. Subject to any spending protocols agreed for the existing councils, members may wish to reprioritise projects for the remaining lifetime of RDC.
- 5.19 The Financial Strategy agreed by Council in February noted that
- “The Head of Paid Service commissioned senior managers to work with their teams to identify areas where it is considered that further investment is required given the current pressures on capacity due to increased service demands and the need to deliver against the Council Plan as well as COVID-related responsibilities. Those identified in relation to business as usual/Council Plan delivery capacity included supporting performance management, data intelligence and potential for further work as a result of LGR. Any further allocations will be subject to business cases coming forward at a future date to members.”
- 5.20 The Strategy also noted that funding for posts and work which was specifically related to the impact of COVID was agreed only for 6 months of the financial year – i.e. up to October 2021 and again that a request to draw down further funds may be forthcoming.
- 5.21 The figures in this report do not include the impact of any further capacity proposals at this stage. Information will be shared with Members later this month at Policy and Resources Committee as the Council goes through the process of updating the Financial Strategy and takes decisions on spending over the final year of its existence. This will be a prioritisation exercise, for both revenue and capital, and working within any agreed protocols. Should any further capacity proposals be included as part of that Strategy, this will have a further impact on reserves. At this stage however it should be noted that without agreed increases to budget there are some pressures which are likely to continue through the year, such as legal costs, and which could jeopardise the small overall surplus highlighted above.

## 6.0 IMPLICATIONS

6.1 The following implications have been identified:

- a) Financial  
Included in the body of the report.
- b) Legal  
There are no legal implications identified as part of this report.
- c) Other  
None to report, although in any report to Committee and Council, it will be noted that any proposals which may impact on Equalities, Staffing, Planning, Health & Safety, Climate Change, Environmental, Crime & Disorder will be assessed as part of the budget process.

**Anton Hodge**  
**Chief Finance Officer (s151)**

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# Management Accounts 2021/22

Results as at Q1 - 2021/22

	Prior Year	Latest Approved	Year to Date		Full Year	Variances		COMMENTS - see also main report
	Actual	Budget	Actual	Budget	Forecast	Year to Date	Forecast Variance	
<b>INCOME</b>								
Fees & Charges	(2,276)	(2,789)	(852)	(955)	(2,789)	103	0	Forecasting to budget, but dependent on any further disruption from COVID.
Government Grants	(820)	(124)	(310)	(41)	(124)	(268)	0	
Grants & Contributions Inc	(139)	(128)	(153)	(43)	(128)	(111)	0	
Housing Benefits	(7,651)	(7,201)	(160)	(81)	(7,201)	(79)	0	
Investment Income	(177)	(55)	5	(20)	(55)	24	0	Currently anticipated to be on budget
Waste Collection & Recycling Inc	(1,833)	(1,871)	(1,207)	(1,405)	(2,121)	198	(250)	Currently £70k up against income budget, however dependant on prices remain stable throughout the year. Volatile market
Recharges	(90)	(117)	(18)	(1,391)	(117)	1,373	0	
<b>TOTAL SERVICE INCOME</b>	<b>(12,987)</b>	<b>(12,284)</b>	<b>(2,696)</b>	<b>(3,935)</b>	<b>(12,535)</b>	<b>1,239</b>	<b>(250)</b>	
Salaries & Employee Costs	9,136	9,782	3,286	3,158	9,996	129	215	£200k projected overspend for Streetscene as highlighted in main report
Supplies & Services	3,114	2,840	839	895	2,840	(56)	0	
Vehicles & Transport	684	570	163	178	566	(15)	(4)	
Premises	850	842	444	435	879	9	36	Delapidation of premises at Derwent Lodge, Repairs and maintenance at Tara Park Travellers site in Malton
Drainage Board Levies	99	101	52	50	101	2	0	
Grants & Contributions	3,276	550	202	237	550	(35)	0	
Housing Benefit Payments	7,631	7,082	2,252	2,363	7,082	(110)	0	
Additional Capacity & Provisions	24	(308)	0	(113)	(308)	113	0	
Interest Payable	53	58	(12)	29	58	(41)	0	
Capital A/c	279	335	(198)	(165)	335	(32)	0	
<b>TOTAL SERVICE EXPENDITURE</b>	<b>25,147</b>	<b>21,852</b>	<b>7,029</b>	<b>7,066</b>	<b>22,099</b>	<b>(37)</b>	<b>247</b>	
<b>FINANCING &amp; RESERVES</b>								
Collection Fund Surplus	19	42	0	0	42	0	0	Ryedale share of the collection fund deficit
Council Tax	(4,429)	(4,483)	537	0	(4,483)	537	0	Collection fund losses due to reduced income during the pandemic to be spread over 3 years from 21/22 - as determined by government and as per budget
NNDR	(3,761)	(2,413)	(2,916)	0	(2,413)	(2,916)	0	Collection fund losses due to reduced income during the pandemic to be spread over 3 years from 21/22 - as determined by government and as per budget
RSG	0	0	0	0	0	0	0	
General Government Grant	(5,460)	(1,723)	(586)	(575)	(1,723)	(11)	0	Includes Covid funding but anticipating this will be less than in 20/21
Transfers to / from Reserves	1,472	(990)	0	0	(990)	0	0	
<b>TOTAL FINANCING &amp; RESERVES</b>	<b>(12,159)</b>	<b>(9,568)</b>	<b>(2,965)</b>	<b>(575)</b>	<b>(9,568)</b>	<b>(2,390)</b>	<b>0</b>	
<b>GF (SURPLUS) / DEFICIT</b>	<b>0</b>	<b>0</b>	<b>1,368</b>	<b>2,556</b>	<b>(3)</b>	<b>(1,188)</b>	<b>(3)</b>	

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## APPENDIX B - CAPITAL BUDGET 2021/22

Results as at Q1 - 2021/22

CAPITAL SCHEME	TOTAL BUDGET 2021/22	ACTUALS YTD	COMMIT YTD	TOTAL ACTUALS & COMMIT	FORECAST Q1 2021/22	VARIANCE	COMMENTARY
	£'000	£'000	£'000	£'000	£'000	£'000	
Vehicle Replacement Programme	1,788	134	1,282	1,416	1,593	(195)	Changes to national policy will require additional vehicles and assessment of capital impacts required to add to these budgets. Moving to a greener fleet i.e. electric or hydro vehicles needs to be assessed and any financial impacts identified
Trade Waste Equipment	33	0	4	4	33	0	
Replacement of Garage Inspection pit	50			0	50	0	Works planned 21/22 to carry out essential health and safety work in the vehicle workshop and some works already completed.
Property Condition Survey: Investment Operation Assets	32			0	32	0	
Property Condition Survey: Leisure Facilities	(4)			0	0	4	
Property Condition Survey: Milton Rooms	216			0	200	(16)	£50k earmarked for a flat roof, £150k for repointing the building
Property Condition Survey: Public Conveniences	0	6	5	11	11	11	
Property Condition Survey: Car Parks	30			0	30	0	
Property Condition Survey: Streetlights	201	136	5	141	160	(41)	
Property Condition Survey: St Leonard's Wall	80	(22)	0	(22)	80	0	Actuals is an accrual posted in 2019/20 and carry forward, scheme to deliver on target
Property Condition Survey: Former Transfer Waste Site	65			0	65	1	Not due to complete until August now. Some of the costs of repairs to be reclaimed by Yorwaste, NYCC and possibly the landlord. Due to overspend but will reclaim some of the additional costs.
Property Condition Survey: Unallocated	42	37	1	38	70	28	Used for sundries that may arise, possible closed Church Yard works of £30k. Grant funding towards the closed church yard works.
Car Park Action Plan	50			0	50	0	
Industrial Units - New Development	2,290	0	8	8	8	(2,282)	Spending is now likely to be in 2022/23
Milton Rooms - Grant towards building works	193			0	193	0	
Milton Rooms - Ring-fenced for business case	307			0	307	0	
Ryedale House - COVID safe adjustments	55			0	55	0	
Livestock Market	1,500			0	100	(1,400)	£100k currently projected in relation to consultant fees. Project is expected to slip into 22/23
Community Facilities in Pickering	200			0	200	0	
Malton and Norton Infrastructure	350	(21)	0	(21)	88	(262)	Actuals relate to Q4 repairs 2020/21. Forecast based on quarterly repairs and maintenance
Malton to Pickering Cycle Route	(22)	17	592	609	609	631	Majority of this is grant funded
IT Infrastructure Strategy	477	27	71	97	282	(195)	Currently forecasting to use most of this funding in 2022/23
						0	

Off HSG Init: Exception Sites Land Purchases	100			0	331	231	
Aff HSG Init: Railway Tavern	724	100	15	115	724	0	
Aff HSG Init: Extended Programme Delivery	1,506	348	12	360	331	(1,175)	S106 Funded, purchase of Castlegate and ongoing work on Vine Street
Aff HSG Init: Property Improvement Loans	75	3	0	3	20	(55)	Based on last years outturn
Aff HSG Init: Landlord Improvement Loans/Grants	50			0	15	(35)	Based on last years outturn
Privates Sector Energy Efficiency Grants	40	40	0	40	40	0	
Private Sector Renewal - Disabled Facility Grants	496	(103)	0	(103)	496	0	Current actuals relate to underspend from 20/21, committed to spend already this year and plans to meet further commitments
Community Housing Fund	289			0	289	0	
Mortgage Rescue Scheme	21			0	21	0	
Flooding Contingency	100			0	420	320	Additional capital spend in 21/22 for the Malton Norton and Old Malton Flood Alleviation Scheme contribution to NYCC, Project Lead as Flood Risk Authority now included but figure is still to be confirmed and may be lower.
<b>Total</b>	<b>11,333</b>	<b>703</b>	<b>1,993</b>	<b>2,696</b>	<b>6,903</b>	<b>(4,430)</b>	

Funded by:

<b>External Grants and Contributions</b>							
Department Communities & Local Government (DCLG)	785				785	0	
Homes England Grant	476				476	0	
Energy Efficiency Grant	40				40	0	
Developers Contributions	486				331	(155)	
Other Grants	(22)				609	631	
<b>Total External Grants and Contributions</b>	<b>1,765</b>				<b>2,241</b>	<b>476</b>	
Borrowing - Finance Leases	1,348				1,348	(0)	
Borrowing - Temp Internal Borrowing	160				160	0	
Revenue Contribution							
Long Term Debtors/Capital Receipts	125				35	(90)	
<b>Reserves</b>	<b>6,387</b>				<b>2,786</b>	<b>(3,601)</b>	
Schemes partially funded from Reserves							
Vehicle Replacement	280				85	(195)	
Aff Housing - Railway Tavern	248				248	0	
Aff Housing - Extended Programme Delivery	1,020				0	(1,020)	
<b>Total Reserves</b>	<b>7,935</b>				<b>3,119</b>	<b>(4,816)</b>	
<b>TOTAL FUNDING OF CAPITAL PROGRAMME</b>	<b>11,333</b>				<b>6,903</b>	<b>(4,430)</b>	



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**REPORT TO: FULL COUNCIL**

**DATE: 9 SEPTEMBER 2021**

**SUBJECT: PART 'B' REFERRALS FROM POLICY AND RESOURCES  
COMMITTEE ON 29 JULY 2021**

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**39 HR Policy Revision – Local Government Pension Scheme Employer Discretions, Family Leave Policy and Probation Policy**

Considered – report of the Head of Human Resources.

**Recommendation**

It is recommended to Council that the revised policies are agreed for implementation.

**Voting record**  
Unanimous

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<b>PART B:</b>	<b>RECOMMENDATIONS TO COUNCIL</b>
<b>REPORT TO:</b>	<b>POLICY AND RESOURCES</b>
<b>DATE:</b>	<b>29 JULY 2021</b>
<b>REPORT OF THE:</b>	<b>HEAD OF HUMAN RESOURCES HAROON RASHID</b>
<b>TITLE OF REPORT:</b>	<b>HR POLICY REVISION – LOCAL GOVERNMENT PENSION SCHEME EMPLOYER DISCRETIONS, FAMILY LEAVE POLICY AND PROBATION POLICY</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

1.1 To approve revised HR Policies:

- LGPS Employer Discretions Policy.
- Family Leave Policy
- Probation Policy

### **2.0 RECOMMENDATION(S)**

2.1 It is recommended to Council that:

- (i) The revised policies are agreed for implementation.

### **3.0 REASON FOR RECOMMENDATION(S)**

3.1 LGPS Employer Discretions Policy

All employers who participate in the Local Government Pension Scheme (LGPS) are required to formulate a discretions policy in accordance with Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008, and Regulation 60 of the Local Government Pension Scheme Regulations 2013.

There is no evidence of an updated policy after 2012.

### 3.2 Family Leave Policy

A number of previous policies existed covering different aspects of family leave, such as maternity and paternity leave. These policies were not up to date in terms of legislation.

### 3.3 Probation Policy

The probation policy and procedure is a new policy to provide structure and consistency to the probation process.

## 4.0 SIGNIFICANT RISKS

4.1 There are no significant risks identified with the revised policies. Outdated policies however, can leave an organisation at risk. Old policies may fail to comply with new laws and regulations and may not address new systems or technology, which can result in inconsistent practices.

## 5.0 POLICY CONTEXT AND CONSULTATION

5.1 Full trade union consultation has taken place and the revised policies have been approved by Strategic Management Board. Final ratification by Elected Members will complete the consultation process prior to implementation.

## REPORT

### 6.0 REPORT DETAILS

6.1 HR policies are a written description of rights and responsibilities of employers and employees. If a policy is well developed and clearly written, it helps communication with employees, clarifies expectations and makes sure that everyone is treated in a consistent and fair way. These are all important factors for creating a desirable culture for the organisation, and they minimise exposure to legal risk.

### LGPS Employer Discretions Policy

#### 6.1 Background to Legislation

The LGPS (Amendment) Regulations 2018 introduced some new rules for scheme members who left before 31 March 2014 and Councillor Members. The change to the scheme rules means that they no longer need our consent (as their former employer) to take their pension benefits between the age of 55 and 60.

The draft discretions policy contains all of the 'legacy' discretions for the

scheme rules prior to 1 April 2014 as well as the current discretions from 1 April 2014. Discretions are classed as:

- **Mandatory:** the employer must formulate, publish and keep under review a policy on these discretions
- **Recommended:** there is no requirement for employers to publish a written policy on these discretions. However, as these matters arise fairly frequently it may be appropriate, so that members can be clear on their employer's policy
- **Less common:** there is no requirement for employers to publish a written policy on these discretions

The draft policy contains discretions classed as mandatory and recommended.

## 6.2 Policy Requirements

In formulating and reviewing the discretions policy RDC are required by the regulations to have regard to the extent to which the exercise of discretionary powers unless properly limited, could lead to a serious loss of confidence in the public service, and be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

Exercising the major discretions may result in a cost to the employer (commonly called 'pension strain'), the policy has been formulated taking this into consideration.

## Family Leave Policy

- 6.3 The Family Leave Policy combines all elements of family leave in one document for consistency and ease of understanding. Previously, separate policies existed for Maternity, Paternity and Adoption Leave. In addition to these, the new policy covers Shared Parental Leave, Unpaid Parental Leave, Surrogacy and Parental Bereavement Leave. For ease of reference a comparison table is provided with the policy.

## Probation Policy and Procedure

- 6.4 This is a new policy to ensure a consistent and supportive approach to probation. This policy is closely aligned with the Council's People and Culture Plan and supports our priorities, values and behaviours in delivering a robust and consistent approach to performance with clear expectations, so a supportive performance culture can develop and be embedded.

## 7.0 IMPLICATIONS

- 7.1 The following implications have been identified:

- a) Financial

Discretionary powers come with a cost attached - policies must not lead to a loss of confidence in public services and therefore have to be affordable.

- b) Legal  
As above
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental and Climate Change, Crime & Disorder)

All policies should pay due regard to equality legislation and care has been taken to make sure that policies do not discriminate on the grounds of any protected characteristic, either directly or indirectly.

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**Job Title**

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**Background Papers:**

- Appendix A: Policy Change Log
- Appendix B: LGPS Employer Discretions Policy
- Appendix C: Family Leave Policy
- Appendix D: Probation Policy and Procedure

## Briefing Notes on Policy Changes

### LGPS Employer Discretions Policy

The Local Government Pension Scheme regulations require employers who participate in the Local Government Pension Scheme (LGPS) to draw up and publish a discretions policy and to keep it under review. Discretions are powers that enable employers to choose how to apply the scheme in respect of certain provisions.

The last time RDC published a Discretions Policy, there were only a small number of elements that were included, mainly those under redundancy and flexible retirement. These remain within the revised draft Discretions Policy as they directly relate to the Redundancy and Flexible Retirement policies which have not yet been reviewed.

In all other cases, the Council must decide how/if it will apply a discretion under each item. Where a discretion is applied, this is usually with a financial implication to the Council.

The policy looks complicated but it is only the last column in the table that needs consideration, all other wording is taken directly from the legislation and is mandatory. The policy is in line with other councils. NYPF have also had sight of the policy and while they cannot advise on what we should do as an organisation, they can comment if there is anything that may cause concern ie contradictory of another discretion or potentially discriminatory and positive feedback has been received.

Once the policy is ratified, this is then sent to NYPF for use.

### Family Leave Policy

This is an amalgamation of all family related policies previously published separately. The majority of the policy is legislative. We have also been mindful of inclusive language use throughout the policy. A comparison table is below:

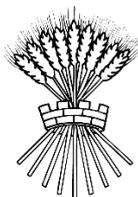
#### Key changes

Old Policies	New Policy
Separate policies for all (maternity, paternity, adoption leave) with the exception of shared parental leave; a policy for this does not current exist within RDC despite this legislation being introduced in 2015.	One document covering all types of family leave
Very outdated: <ul style="list-style-type: none"><li>• maternity leave last updated in 2010 – 7 pages</li><li>• adoption leave last updated in 2008 – 2 pages</li><li>• no shared parental leave policy</li><li>• paternity leave (2002, revised 2009) – 2 pages</li></ul>	Follows up to date guidance and legislation

Misses some key elements of what should be contained in both documents	In line with ACAS guidance, includes procedural guidance and information on pay entitlements, KIT days and other statutory information
No section covering purpose and scope in any of the old policies	Section added
Terminology (abbreviations) only explained in Maternity Policy	Guide to all abbreviations
Very different levels of information between the policies – for example adoption leave very closely mirrors maternity leave the former was 2 pages, the latter 7 pages	Consistent approach to information, with more detail provided where necessary. Like information grouped for ease of reference
Outdated language and overly complicated explanations	Improved language and document sectioned, with comprehensive table of contents for ease of reference
One page separate document on New and Expectant Mothers at Work (2 paragraphs)	Incorporated into policy with risk assessment template

### **Probation Policy**

This is a new policy to ensure a consistent and supportive approach to probation periods for all eligible employees. Although we have always had a probation procedure, the policy provides a detailed clear process for managers and employees to follow. This policy is closely aligned with the Council's People and Culture Plan and supports our priorities, values and behaviours in delivering a robust and consistent approach to performance with clear expectations, so a supportive performance culture can develop and be embedded.



## Local Government Pension Scheme – Employer Discretions Policy

<b>Author</b>	HR/OD Project Officer
<b>SMB owner</b>	Head of HR
<b>Policy reference no.</b>	HREDP
<b>Version</b>	01
<b>Status</b>	DRAFT
<b>Ratifying committee</b>	Policy & Resources, Council
<b>Date ratified</b>	
<b>Date policy effective from</b>	
<b>Review cycle</b>	3 years or on change in legislation
<b>Review date</b>	

## Introduction

The Local Government Pension Scheme regulations require employers who participate in the Local Government Pension Scheme (LGPS) to draw up and publish a discretions policy and to keep it under review.

Discretions are powers that enable employers to choose how to apply the scheme in respect of certain provisions. Discretions only apply at the time of application and are subject to change.

When the Council sets and reviews these employer discretions, consideration is given to:

- Cost – discretionary powers come with a cost attached - policies mustn't lead to a loss of confidence in public services and therefore have to be affordable.
- Basis on which decisions are made – policies should not be as rigid or restrictive as to prevent flexibility where a possibly unanticipated situation requires it.
- Equality – criteria that do not discriminate and where decisions are objectively justified

There are many employer discretions in the current Scheme regulations and several more still existing from previous Schemes; however only a relatively small number of employer discretions have to be published.

The LGPS Employer Discretions Policy is therefore the Council's written policy statement detailing all mandatory employer discretions, plus a number of non-mandatory employer discretions the LGPS recommend employers also publish.

North Yorkshire Pension Fund Board publish the Administering Authority discretions on their website.

## Scope and Policy

Due to changes of the Scheme over time, different regulations and provisions may apply to pension benefits and pensionable service accrued under different arrangements. This policy sets out the relevant discretions in different sections. At the commencement of each section the applicable Regulations are detailed.

## Sections

Section	Contents	Page
1	Discretions from 1 April 2014 in relation to post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)	4
2	Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014	8
3	Discretions in relation to: <ul style="list-style-type: none"><li>• councillor members who ceased active membership on or after 1 April 1998 and</li><li>• any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008</li></ul>	9

4	Discretions in relation to scheme members who ceased active membership before 1 April 1998	10
5	Discretions in relation to redundancy and compensatory payments on the early termination of employment	10
6	Discretions in relation to any compensatory added years awarded before 1 April 2007	11
7	Injury allowances as they apply to leavers, deaths and reductions in pay that occurred after 15 January 2012	12

## Definitions

Within the Regulations all discretions have a classification as follows:

- Mandatory - an employer must formulate, publish and keep under review a policy on these discretions.
- Recommended - there is no requirement for an employer to publish a written policy on these discretions. However, as these matters arise fairly frequently it may be appropriate so that members can be clear on your policy on these matters.
- Less common - there is no requirement for employers to publish a written policy on these discretions, though they may choose to do so.

Within a number of the discretions, reference is made to **administrative shortcomings**. The following would be considered an administrative shortcoming:

- A scheme member is not given appropriate advice/information to enable him/her to transfer pension rights
- A scheme member contacts RDC, NYPF or a previous pension scheme regarding transfer within 12 months but does not receive correct or sufficient information to enable them to make a proper decision
- A scheme member believes that the action he/she has taken within 12 months is sufficient to have effected transfer
- A scheme member has used his/her best endeavours to effect a transfer within 12 months of joining the scheme but the transfer has not taken place for reasons outside of his/her control, e.g. investigation into mis-selling, winding up of previous fund, etc.

<b>SECTION 1</b>	<b>Discretions applicable from 1 April 2014 in relation to post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)</b>
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**Applicable Regulations:**

**Abbr. Description**

- R** Local Government Pension Scheme (LGPS) Regulations 2013 [SI 2013/2356]  
**TP** LGPS (Transitional Provisions, Savings and Amendments) Regulations 2014 [SI 2014/525]  
**A** LGPS (Administration) Regulations 2008 [SI 2008/239]  
**B** LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended) [SI 2007/1166]  
**T** LGPS (Transitional Provisions) Regulations 2008 [SI 2008/238]  
**L** LGPS Regulations 1997 (as amended) [SI 1997/1612]

No	Area	Discretion	Regulation	Policy
1	<b>Mandatory</b> <b>Granting additional pension</b>	Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a - figure at 1 April 2014. This is inflation proofed annually)	R31	RDC will not grant additional pension to a member.
2	<b>Mandatory</b> <b>Shared cost Additional Pension Contributions (to buy additional pension)</b>	Whether, how much and in what circumstances to contribute to a shared cost Additional Pension Contributions (APC) scheme  A member can buy additional pension through an APC contract. The discretion is whether the employer will share the cost of the APC	R16(2)(e) & R16(4)(d)	RDC will contribute to Shared Cost APC Schemes only when an employee has opted to buy back 'lost' pension due to a period of authorised unpaid leave (including sickness and child related leave) within 30 days of returning to work from that leave. In these circumstances, the employee will pay one third of the cost of the Shared Cost APC and the employer will pay two thirds of the cost.
3a	<b>Mandatory</b>	Whether all or some benefits can be paid if an active member aged 55 or over and with at least 2 years qualifying service reduces their hours or grade (flexible retirement)	R30(6) & TP11(2)	RDC will consider applications in accordance with its policy on early/flexible retirement.
3b	<b>Flexible retirement</b>	Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement	R30(8)	RDC will not waive any actuarial reduction on benefits paid on flexible retirement. All applications for flexible retirement will be considered in line with the process and criteria set out in RDC's policy on early/flexible retirement.

4	<b>Mandatory 85 Year Rule</b>	Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement).	TPSch 2, para, 1(2) &1(1)(c)	RDC will not switch on the 85 Year Rule for any employee voluntarily drawing benefits on or after age 55 and before age 60
5a	<b>Mandatory Waive Reduction</b>	<p>Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/14 and post 31/3/14 membership)</p> <p>a) on compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was not in the Scheme before 1/10/06,</p> <p>b) on compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will not attain 60 between 1/4/16 and 31/3/20 inclusive</p> <p>c) on compassionate grounds (pre 1/4/16 membership) and in whole or in part on any grounds (post 31/3/16 membership) if the member was in the Scheme before 1/10/06 and will be 60 by 31/3/16</p> <p>d) on compassionate grounds (pre 1/4/20 membership) and in whole or in part on any grounds (post 31/3/20 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will attain 60 between 1/4/16 and 31/3/20 inclusive</p>	TP3(1), TPSch 2 para 2(1) & B30(5) & B30A(5)	RDC will not waive any actuarial reduction arising out of a voluntary early or flexible retirement.
5b	<b>Mandatory Waive Reduction (cont)</b>	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31/3/14 membership)	R30(8)	RDC will not waive any actuarial reduction on benefits paid which a member voluntarily draws before normal pension age
6	<b>Recommended Shared cost Additional</b>	If a member has an authorised unpaid absence (not including illness or injury, relevant child-related leave or reserve forces service leave) and within 30 days of	R16(16)	RDC will extend the deadline for a member to elect for a shared cost APC to 60 days or longer where there is evidence of administrative shortcoming.

	<b>Pension Contributions (to buy lost pension following a period of authorised unpaid absence)</b>	returning to work they elect to buy back the lost pension, the employer must share the cost (2/3rds) The discretion is whether to extend the 30 day deadline for a member to elect for a shared cost APC		
7	<b>Recommended</b> <b>Transferring in non LGPS pension rights</b>	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	RDC will allow members to opt to transfer pension rights beyond the 12 month period in exceptional circumstances and/or if there is evidence of administrative shortcomings.  The Administering Authority can provide guidance on individual queries.
8	<b>Recommended</b> <b>Transferring in LGPS pension rights (only for pre 1 April 2014 re-joiners)</b>	Whether to extend the 12 month option period for aggregation of deferred benefits Care: This must match your existing discretion under the 2008 Scheme.	A16(4)(b)(ii)	RDC will only permit aggregation beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings
9a	<b>Recommended</b> <b>Transferring in LGPS pension rights (only for post 1 April 2014 re-joiners)</b>	Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment	R22(8)(b)	RDC will only extend the 12 month option period beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings
9b		Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with an ongoing concurrent employment	R22(7)(b)	RDC will only extend the 12 month option period beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings
10	<b>Recommended</b> <b>Transferring in LGPS pension rights (i.e. final salary benefits which will buy CARE pension</b>	Whether to extend the 12 month option period for a member (who did not become a member of the 2014 Scheme by virtue of TP5 (1)) to elect that pre 1 April 2014 deferred benefit should be aggregated with a new employment	TP10(6)	RDC will only permit aggregation beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings

	<b>only for post 1 April 2014 re-joiners)</b>			
11 Page 45	<b>Recommended Employee contribution rate</b>	Employers to assess the relevant contribution band to determine the rate of employee contribution. Banded contribution rates for employees are based on actual pensionable pay received and not whole time equivalent salary. Employers to allocate appropriate band at each 1 April and determine other circumstances in which the banding will be reviewed.	R9(1) & R9(3)	<p>On 1st April each year, RDC will allocate the appropriate band for all members' pensionable pay based on the previous years' pensionable pay and include incremental progression and cost of living increases where known as at 1 April .</p> <p>This will not change during the financial year unless there is a post change or cessation of salary protection arising from that change, or a pay award which cannot be applied on 1 April.</p> <p>This would include a pay award which is being applied retrospectively to 1 April or a pay award which applies from a date other than 1 April. For new posts commencing during the year, their band will depend on starting salary.</p> <p>Only permanent changes to pensionable pay will result in re banding. If members have variable or nil hours contracts, the relevant band will be based on an assessment of the total pensionable pay received in the previous year.</p> <p>For new variable or nil hours posts, banding will be based on the whole time equivalent salary, and reviewed 6 months after appointment to ensure the correct band has been allocated (based on total pensionable pay in their first 6 months). If any member believes this would be inaccurate, they should ask their Line Manager to contact ESS for further information.</p>
12a	<b>Recommended</b>	In determining APP, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	R21(5)	RDC would include lump sum payments in the calculation of APP where there is evidence that the lump sums were regularly received.



				All applications will be considered by the Strategic Management Board
15	<b>Mandatory Waive reduction</b>	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A (pensioner member with deferred benefits, i.e. a suspended tier 3 ill health pensioner)	B30A(5) TPSch 2, para 2(1)	Applications from deferred Pensioners will only be considered on compassionate grounds, taking into account the costs of waiving any reduction. All applications will be considered by the Strategic management Board

<b>SECTION 3</b>	<b>Discretions in relation to:</b> a. <b>councillor members who ceased active membership on or after 1 April 1998., and</b> b. <b>any other scheme members who ceased active membership on or after 1 April 1998. and before 1 April 2008</b>
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### Applicable Regulations:

#### Abbr. Description

- A** LGPS (Administration) Regulations 2008 [SI 2008/239]  
**B** LGPS (Benefits, Memberships and Contributions) Regulations 2007 (as amended) [SI 2007/1166]  
**P** LGPS (Transitional Provisions) Regulations 2008 [SI 2008/238]  
**PP** LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525]  
**RP** LGPS Regulations 2013 [SI 2013/2356]  
**RP** LGPS 1997 (as amended) [1997/1612]

No	Area	Discretion	Regulation	Policy
16	<b>Mandatory Employer consent retirement</b>	Grant application for early payment of deferred benefits on or after age 50 and before age 55	L31(2)	RDC will not grant early payment of deferred benefits before the age of 55
17	<b>Mandatory Waive reduction</b>	Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early	L31(5) & TPsSch 2, para 2(1)	RDC will not waive actuarial reduction on deferred benefits paid early.
18	<b>Mandatory Employer consent at Normal Retirement Date for optant out</b>	Where a member who opted out of the scheme continues to be employed by a Scheme employer, the member is only entitled to receive their benefits at NRD if their employer consents to them doing so (in respect of a member who opted out of the scheme after 31 March 1998 and before 1 April 2008).	L31(7A)	RDC will agree to optants out being able to get benefits paid from their NRD

19	<b>Mandatory 85 Year Rule</b>	Whether to “switch on” the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60	TPSch 2, para 1(2) & 1(1)(f) & R60	RDC will not switch on the 85 Year Rule for any deferred member voluntarily drawing benefits on or after age 55 and before age 60
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<b>SECTION 4</b>	<b>Discretions in relation to scheme members who ceased active membership before 1 April 1998</b>
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**Applicable Regulations:**

**Abbr. Description**

- LGPS Regulations 1995 (as amended) [SI 1995/1019]
- L LGPS Regulations 1997 (as amended) [SI 1997/1612]
- TL LGPS (Transitional Provisions) Regulations 1997 (SI 1997/1613)
- TP LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525]
- R LGPS 2013 [SI 2013/2356]

No	Area	Discretion	Regulation	Policy
20	<b>Mandatory Employer consent retirement</b>	Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds	TP3(5A)(vi) TL4 & L106(1) & D11(2)(c)	RDC will not grant applications for early payment of deferred benefits between the ages of 50 and 55. Over the age of 55, RDC will consider on a case by case basis.

<b>SECTION 5</b>	<b>Discretions in relation to redundancy and compensatory payments on the early termination of employment</b>
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**Applicable Regulations:**

Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended) [SI 2006/2914]

No	Area	Discretion	Regulation	Policy
21	<b>Mandatory Redundancy Pay on actual week's pay</b>	To base redundancy payments on an actual weeks pay where this exceeds the statutory week's pay limit	5	RDC redundancy policy  Actual weekly pay will be used to calculate the redundancy payments for all Ryedale District Council employees.

22	<b>Mandatory</b> <b>Lump sum compensation</b>	To award lump sum compensation of up to 104 weeks' pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment	6	RDC redundancy policy  Lump sum compensation payments will be made to all employees. Severance payments will be calculated by applying a multiplier of 1.5 to each completed year of service, up to a maximum of 20 years' service (30 weeks).  For employees affected by TUPE regulations, RDC will take legal advice where appropriate.
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<b>SECTION 6</b>	<b>Discretions in relation to any compensatory added years awarded before 1 April 2007</b>
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**Applicable Regulations:**

Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended) [SI 2000/1410]

No	Area	Discretion	Regulation	Policy
23	<b>Mandatory</b> <b>Abatement during re-employment</b>	Whether and to what extent to reduce or suspend the member's annual compensatory added years (CAY) payment during any period of re-employment in local government	17	RDC will make a determination after consultation with the administering Authority and having regard to the date of original award.
24	<b>Mandatory</b> <b>Reduction following cessation of re-employment</b>	How to reduce the member's annual CAY payment following the cessation of a period of re-employment in local government	19	RDC will make a determination after consultation with the administering Authority and having regard to the date of original award.
25	<b>Mandatory</b> <b>Apportionment of survivor benefit</b>	How to apportion any surviving spouse's or civil partner's annual CAY payment where the deceased person is survived by more than one spouse or civil partner	21(4)	RDC will consider on a case by case basis.
26a	<b>Mandatory</b>	Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil	21(7)	RDC will consider on a case by case basis

	<b>Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments</b>	partnership or cohabits after 1 April 1998, the normal pension suspension rules should be disapplied i.e. whether the spouse's or civil partner's annual CAY payments should continue to be paid		
26b		If, under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual CAY payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation	21(5)	If RDC determined to suspend such payment, it will reinstate after the end of the remarriage, new civil partnership or cohabitation.
26c		Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them	21(7)	RDC will consider on a case by case basis.

Page 5

**SECTION 7 Injury allowances as they apply to leavers, deaths and reductions in pay that occurred after 15 January 2012**

**Applicable Regulations:**

Discretions under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011[SI 2011/2954]

No	Area	Discretion	Regulation	Policy
27a	<b>Mandatory Injury Allowances</b>	Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	3(1)	RDC does not grant any injury allowance.
27b		Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	3(4) & 8	RDC does not grant any injury allowance.
27c		Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1)	3(2)	RDC does not grant any injury allowance.

		(reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).		
<b>27d</b>		Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.	4(1)	RDC does not grant any injury allowance.
<b>27e</b>		Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job	4(3) & 8	RDC does not grant any injury allowance.
<b>27f</b>		Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity)	4(2)	RDC does not grant any injury allowance.
<b>27g</b>		Whether to suspend or discontinue injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.	4(5)	RDC does not grant any injury allowance.
<b>27h</b>		Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a regulation 3 payment (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) was being made at date of cessation of employment but regulation 4 (loss of employment through permanent incapacity) does not apply	6(1)	RDC does not grant any injury allowance.
<b>27i</b>		Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following cessation of employment)	6(1)	RDC does not grant any injury allowance.
<b>27j</b>		Determine whether and when to cease payment of an injury allowance payable under regulation 6(1) (payment of injury allowance following cessation of employment).	6(2)	RDC does not grant any injury allowance.
<b>27k</b>		Whether to grant an injury allowance to the spouse, civil partner, co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or	7(1)	RDC does not grant any injury allowance.

		contracting a disease in the course of carrying out duties of the job.		
271		Determine amount of any injury allowance to be paid to the spouse, civil partner or co-habiting partner under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	7(2) & 8	RDC does not grant any injury allowance.
27m		Determine whether and when to cease payment of an injury allowance payable under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	7(3)	RDC does not grant any injury allowance.



## **Family Leave Policy**

<b>Author</b>	Senior HR Business Partner
<b>SMB owner</b>	Head of HR
<b>Policy reference no.</b>	HRFLP
<b>Version</b>	01
<b>Status</b>	Draft
<b>Ratifying committee</b>	Policy & Resources, Council
<b>Date ratified</b>	
<b>Date policy effective from</b>	
<b>Review cycle</b>	3 years or on change in legislation
<b>Review date</b>	2024

## Contents

Section	Subject	Page
<b>Introduction</b>		
1	Purpose and Scope	
2	Guide to Abbreviations	
<b>Maternity and Adoption</b>		
3	Right to Maternity/Adoption Leave	
3.1	Entitlement	
4	Notification	
4.1	Maternity	
4.2	Adoption	
5	Health and Safety: Maternity	
6	Maternity and Adoption Leave	
6.1	Starting Maternity/Adoption Leave	
6.1.1	Maternity	
6.1.2	Adoption	
6.2	Changing the Maternity/Adoption Leave Start Date	
6.3	Stopping Maternity/Adoption Leave and Converting to Shared Parental Leave	
6.4	Returning from Maternity/Adoption Leave	
6.5	Returning Before the Full Entitlement	
6.6	Annual Leave	
6.7	Miscarriage, Still Birth or Death of a Child (in relation to maternity leave)	
6.8	Pregnancy-related Sickness Absence	
6.9	Pregnancy During Maternity Leave	
7	Maternity Pay (MP) and Adoption Pay (AP)	
7.1	Who qualifies for maternity/adoption pay?	
7.2	Statutory Maternity/Adoption Pay (SMP/SAP)	
7.3	Occupational Maternity/Adoption Pay (OMP/OAP)	
7.4	Calculating SMP/SAP	
7.5	Employee Benefits and Maternity/Adoption Pay	
7.6	Not Qualifying for SMP/SAP	
7.6.1	Maternity	
7.6.2	Adoption	
7.7	Who Qualifies for Occupation Maternity/Adoption Pay	
8	Pension Implications	
9	Keeping in Touch Days (KIT)	
10	Additional Employment	
<b>Paternity/Maternity Support Leave</b>		
11	Entitlement	
12	Leave for Antenatal Appointments	
13	Miscarriage, Still Birth or Death of a Child (in relation to paternity leave)	
<b>Shared Parental Leave (ShPL) and Pay (ShPP)</b>		
14	Shared Parental Leave	

14.1	Who is eligible for ShPL?	
14.2	What is the entitlement	
14.3	When can ShPL begin	
14.4	Giving notice of the intention to take ShPL	
14.5	What information must be provided by the employee	
14.6	Booking ShPL	
14.7	Continuous leave notifications	
14.8	Discontinuous leave notifications	
14.9	Commencing ShPL	
14.10	Varying ShPL	
14.11	What happens on return to work?	
14.12	ShPL in touch days (SPLiT days)	
15	Shared Parental Pay (ShPP)	
15.1	What are the arrangements for pay during ShPL?	
<b>Unpaid Parental Leave</b>		
16	Eligibility	
16.1	Arrangements	
<b>Surrogacy</b>		
17	Surrogacy	
<b>Parental Bereavement Leave and Pay</b>		
18	Parental Bereavement Leave	
<b>Appendices</b>		
A	Guidance for Managers	
B	Risk Assessment Template for New and Expectant Birth Parents	

## Introduction

### 1. Purpose and Scope

This document applies to all employees of Ryedale District Council and covers family leave and pay arrangements. There are some differences in entitlement depending on the conditions of service that apply, which are detailed in the body of the document.

Any documentation (e.g. MATB1, adoption matching certificate, keep in touch notes and forms, etc) must be saved on the employee's file by the Line Manager. Original certificates may be requested by Payroll Services in which case copies should be taken for the file.

Managers are not expected to be experts in family leave and pay arrangements and where there is any uncertainty when applying the policy, managers should seek advice from:

- Policy advice: HR Shared Service Team (HRSST)
- Pay related advice: Employment Support Service (ESS)

### 2. Guide to Abbreviations

		OAL	Ordinary Adoption Leave
		OAP	Occupational adoption pay
AAL	Additional Adoption Leave	OML	Ordinary maternity leave
AL	Adoption leave	OMP	Occupational maternity pay
AML	Additional maternity leave	PL	Paternity leave
CML	Compulsory maternity leave	SAP	Statutory adoption pay
EWC	Expected week of childbirth	ShPL	Shared parental leave
KIT	Keep in touch	ShPP	Shared parental pay
MA	Maternity allowance	SMP	Statutory maternity pay
ML	Maternity leave	SPLIT	Shared parental leave keep in touch
MP	Maternity pay	SPP	Statutory paternity pay
MSL	Maternity support leave	UPL	Unpaid parental leave

## Maternity and Adoption

### 3. Right to Maternity/Adoption Leave (ML/AL)

You have the right to up to 52 weeks' maternity/adoption leave if you're having a baby or adopting a child and are legally classed as an employee.

You have this right from your first day of starting a job. After the first compulsory 2 weeks leave (in the case of maternity), how many of the remaining 50 weeks you take is up to you.

You get the same amount of maternity leave and pay (i.e. 52 weeks leave etc) even if you have more than one baby, for example twins.

### **3.1 Entitlement**

An employee is entitled to take up to 26 weeks' ordinary maternity leave (OML) or ordinary adoption leave (OAL) and up to 26 weeks' additional maternity leave (AML) or additional adoption leave (AAL), making a total of 52 weeks. This is regardless of the number of hours worked, or length of service. There must be no gap between OML/OAL and AML/AAL.

## **4. Notification**

### **4.1 Maternity**

It is in the interests of the employee to inform the employer of the pregnancy as soon as possible, for reasons of Health and Safety and also to be paid for ante-natal appointments.

Notification should be made in writing (email or letter) no later than the end of the 15th week before the expected week of childbirth (EWC) of the following:

- The fact that you are pregnant;
- Your expected week of childbirth;
- The date on which you wish to start your maternity leave; and
- If eligible, whether you wish to be paid the Occupational Maternity Pay (i.e. will be returning to work after the maternity leave period).

An **original** MAT B1 certificate must be provided, which is a certificate from a healthcare provider (normally Midwife) confirming the expected week of childbirth (EWC). Maternity leave cannot be processed without the original document. This is usually available at around the 24th week of pregnancy. It is advisable to take photocopies as other employers may wish to see a copy if there is an application for paternity or shared parental leave.

The manager will reply to the employee within 28 days of receiving notification, to advise the expected date of return from ML. Unless otherwise agreed, there will be an assumption that the employee will take the full 52 weeks ML.

### **4.2 Adoption**

The employee should tell their manager as soon as they have been approved as the primary adopter so that the manager can plan working arrangements. This may be before the employee has received or needs to submit their documentary evidence.

The manager should respond in writing to acknowledge their initial notification and seek support from HR if necessary.

The employee must inform their manager in writing of their intention to take AL within;

- UK Adoptions: seven days of being notified by their adoption agency that they have been matched with a child for adoption.
- Overseas Adoptions: no later than 28 days after the date they receive the 'official notification', which is normally from the Secretary of State.

This is known as the notification period and they should inform their manager in writing:

- That they are adopting a child
- When the child is expected to be placed with them
- When they want their adoption leave to start

In addition, they should:

- Give at least 28 days' notice of the date they expect any payments of Statutory Adoption Pay (SAP) to start, if reasonably practicable
- Declare their intention to return to work at the end of the period of AL, to qualify for OAP; and give their manager a 'matching certificate' from their adoption agency as proof of their entitlement to SAP and AL. Employees should ask their adoption agency for this certificate, which will include basic information on matching and expected placement dates.
- Managers will respond in writing using the appropriate template letter within 28 days of receiving the above notification to advise the expected return date from AL. This will be based on their full leave entitlement of 52 weeks unless notified otherwise.
- Employees going through the adoption process can apply for up to 5 days paid leave per year (pro rata for part time staff). This pre adoption leave can be used in preparation for the adoption. Appointment timing subject to agreement with line manager.

## **5. Health and Safety: Maternity**

The Authority has a duty to take care of the health and safety of all employees, which includes undertaking a risk assessment (see Appendix B) to assess the workplace risks to women who are pregnant, have recently given birth or are breastfeeding. The line manager, along with the employee, should complete a Pregnant Workers Checklist. <https://www.hse.gov.uk/pubns/indg373.htm>

## **6. Maternity and Adoption Leave**

### **6.1 Starting Maternity/ Adoption leave (ML/AL)**

#### **6.1.1 Maternity**

Maternity Leave (ML), at the earliest, can begin from the eleventh week before the EWC. ML can start from any day of the week.

If ML has not already started, it will be triggered by the birth of the child, or pregnancy-related sickness, from the beginning of the fourth week before the EWC.

If triggered by the birth of the child, ML will begin on the day that follows the day on which childbirth occurs.

In either of these situations, the employee must notify their manager as soon as reasonably practicable, that they have given birth or that they are absent wholly or partly because of pregnancy related sickness. If they do not do so, they may lose their right to paid ML. Initial notification can be by telephone but this should be followed up in writing as soon as possible.

Even when a baby has been born prematurely, or is sick, the birth parent must notify their employer as soon as reasonably practicable that they have given birth, and provide the date that the baby was born. Sometimes the birth parent is unable to obtain and complete the MAT B1 form before the birth, for example if the baby is born prematurely or the birth parent and /or the baby is sick. This may mean a delay in getting the form signed and sending it to payroll. Therefore, they would not receive Statutory Maternity Pay / Maternity Allowance until the form can be provided. Managers should bear in mind that this is a very stressful time for parents and any communications regarding this or other matters should be approached sensitively and compassionately.

Where an employee holds multiple posts within the organisation, their ML and MP will commence on the same date for all posts based on total earnings for all roles.

### **6.1.2 Adoption**

Employees can choose to start their leave on any day of the week, either:

- From the date of the child's placement; or
- From a fixed date which can be up to 14 days before the expected date of placement; or
- From a 'fixed point' to be agreed, where a child is being adopted from overseas

If the employee's placement is delayed for any reason and they have already started Adoption Leave (AL) they will not be able to stop it and start again at a later date, unless it becomes a disrupted placement. If the employee plans to start AL before the actual date of placement they should check the placement is to start as planned.

If the employee has started AL before the placement of the child and they are subsequently notified that the placement will not be made; or, if during the employee's AL the child placed with them is returned to the adoption agency or died; then, the manager will discuss with them sympathetically an appropriate date on which to return to work. Usually in this situation the employee's AL finishes eight

weeks after the end of the week in which the disruption took place, or earlier if their AL was due to finish before this time. The employee should still give 28 days' notice to return to work.

## **6.2 Changing the Maternity/Adoption Leave start date**

If the employee subsequently wants to change the date on which their leave starts, they must give at least 28 days' notice if reasonable practicable. The manager will reply in writing within 28 days to confirm their new expected date of return.

If ML is triggered by childbirth or a pregnancy-related absence the manager will similarly write to confirm the employee's expected date of return.

To avoid potential underpayments, line managers should inform Employment Support Services as soon as possible (and ideally before the payroll deadline) once a return to work date has been agreed with the employee. The workflow is not linked to the payroll system so ESS needs to be advised separately.

## **6.3 Stopping maternity/adoption leave and converting to shared parental leave**

An eligible employee can opt into Shared Parental Leave (ShPL) at any point (after compulsory maternity leave) before their return, as long as there is some untaken ML/AL to share.

Employees must give their line manager notification of their entitlement and intention to take ShPL **at least** eight weeks before the ShPL can begin.

## **6.4 Returning from Maternity/Adoption Leave (ML/AL)**

Employees who intend to return to work at the end of their full ML/AL entitlement do not have to give any further notification to their manager. An employee is entitled to return to the job in which they were employed under their original contract of employment and on terms and conditions not less favourable than those which would have been applicable to them if they had not been on maternity leave. 'Job' for this purpose, means the nature of the work which they are employed to do and the capacity and place in which they are employed.

Where it is not practicable by reason of redundancy to return to work to the job the employee had before their maternity/adoption leave commenced, they must be offered a suitable alternative post, if this is available, which must be on terms and conditions not substantially less favourable than those on which they were originally employed.

Suitable alternative employment may also be offered if exceptional circumstances (other than redundancy e.g. reorganisation), which would have occurred regardless of their absence, necessitate a change in the job in which they were employed prior to their absence. The work to be done should be suitable to them and appropriate to the circumstances and the capacity and place in which they are to be employed. The terms and conditions of employment should not be less favourable to them than if they had been able to return to the job in which they were originally employed.

## **6.5. Returning before the full leave entitlement**

If the employee wants to return before the end of their full leave entitlement of 52 weeks they must tell their manager at least 8 weeks before the intended return date (whether in the OML/OAL or AML/AAL period). These notice periods are the minimum required by legislation and are as such to enable managers to plan cover.

If the employee does not give the minimum notice, the manager may postpone the employee's return until 8 weeks after the date the manager was informed the employee wished to return early, but not to a date after the employee's full leave entitlement would have ended.

If the employee does not intend to return at the end of their ML/AL they should give normal contractual notice. If OMP/OAP has been received, the employee would be required to pay this element back to the authority.

To avoid potential underpayments line managers should inform payroll as soon as possible (and ideally before the payroll deadline) once a return to work date has been agreed with the employee.

## **6.6. Annual Leave**

Employees will continue to accrue annual leave during their maternity/adoption leave at the normal rate.

Where possible all leave should be taken in the current leave year by tagging annual leave onto the start and/or end of maternity/adoption leave but a maximum of five days can be carried forward to the following year with line manager's consent and must be taken within three months of the return to work.

For employees not returning to work, annual leave will be calculated up to the last day of employment.

If an employee does not return to work for a period of at least three months after ML/AL, then any leave taken to which the employee was not entitled will be reclaimed.

## **6.7. Miscarriage, still birth or death of a child (in relation to maternity leave)**

Miscarriage can be a frightening, lonely and traumatic experience for all parents. It is often both physically and emotionally painful, with effects that can last for a very long time. Your line manager and the Council will want to support you in the most appropriate way possible. The Council's Health Assured Employee Assistance Programme is also able to provide emotional support via a 24/7 helpline, staffed by BACP (British Association for Counselling and Psychotherapy) qualified counsellors. You can telephone Health Assured on 0800 030 5182.

If the baby is stillborn (i.e. miscarriage occurs) earlier than the 24th week of pregnancy, the employee will not be eligible for Maternity Pay and Maternity Leave. However, if they are unfit to return to work at this time, they will be eligible to take

sick leave, subject to the normal sick pay entitlements. Sickness absence in this instance will be recorded as 'pregnancy-related' and will not count towards sickness absence trigger point.

If the employee is not the person who has experienced the physical loss (for example this might be a partner) but needs to take time off work following the loss, compassionate or special leave will be considered. Please see the leave policy for more information.

If the baby is stillborn after the start of the 24th week of pregnancy, then the employee will still qualify for full Maternity Pay and Maternity Leave in accordance with criteria as stated above.

If a child dies within the Maternity Leave period, the employee will remain eligible for Maternity Pay and Maternity Leave in the usual way.

Further information on parental bereavement leave is provided at section 18.

## **6.8 Pregnancy-related sickness absence**

If an employee cannot work due to a pregnancy-related illness, they should notify their manager following the usual sickness absence procedure and will receive their usual sick pay. Pregnancy-related absence is recorded separately from other sickness absence and is not counted towards any review or trigger points.

If the employee is off work because of a pregnancy-related illness within 4 weeks of the due date, maternity leave will begin automatically.

## **6.9 Pregnancy during maternity leave**

If an employee falls pregnant again during their maternity leave, they should notify their line manager in accordance with the notification requirements set out previously in this policy. SMP/OMP will be calculated in accordance with the previously set out guidance based on the reference period prior to 15 weeks before the EWC.

An employee who has taken advantage of unpaid additional maternity leave (AML) and then finds that due to a further pregnancy, they will require a further period of maternity leave to commence immediately on expiry of AML, will be entitled to return to work in their original job if this is reasonably practicable, or to another job which is deemed to be suitable and appropriate at the end of the second period of maternity leave.

The work to be done should be suitable to them and appropriate to the circumstances and the capacity and place in which they are to be employed. The terms and conditions of employment should not be less favourable to them than if they had been able to return to the job in which they were originally employed.

## **7. Maternity Pay (MP) and Adoption Pay (AP)**

### **7.1 Who qualifies for maternity/adoption pay (MP/AP)?**

If an employee has completed 26 weeks continuous service with Ryedale District Council or another local authority recognised under the Modification Order, by the

- 15th week before the EWC (maternity)
- week in which they are matched with a child for adoption (adoption)

and average earnings are at least the lower limit for N.I. contributions, they will be entitled to maternity/adoption pay from the organisation.

## **7.2 Who qualifies for Occupational Maternity/Adoption Pay (OMP/OAP)?**

If the employee is eligible to receive SMP/SAP, they will also be entitled to Occupational Maternity/Adoption Pay. It is paid on the understanding that the employee will return to local authority employment for at least 12 weeks (excluding any period of unpaid parental leave).

Alternatively, should you be unsure as to whether you wish to return to work following maternity/adoption leave, the OMP/OAP element can be withheld until the end of the period and the amount paid in full when/if the employee returns to work after ML/AL.

**Pay calculations are based on when money is due rather than when it is paid, so the 'half pay plus SMP/SAP must not exceed full pay' refers to the weekly calculation based on week's 7-18 when OMP/OAP is due.**

Where an employee has multiple posts the OMP/OAP applies on all of their established posts at the time they are going on ML/AL should they meet the continuous service requirement for OMP/OAP i.e. if they have been with Ryedale District Council in an established post (NOT relief) for more than 12 months then their OMP/OAP will reflect the multiple posts.

Regardless of the date of return, SMP/SAP cannot be paid in part weeks, whereas OMP/OAP would be paid up to the day before the employee returns.

### **Pay if you're adopting a child from overseas**

The requirements are the same as if you're adopting from within the UK, except the employee must have been continuously employed with Ryedale District Council or another local authority recognised under the Modification Order for at least 26 weeks when the employee begins to receive adoption pay. Employees must also sign [form SC6](#) (government website) if they are adopting from overseas with a partner.

This is because, if you're adopting a child from abroad with a partner, you can choose who gets SAP and adoption leave and who gets Statutory Paternity Pay (SPP) and paternity leave.

Whoever chooses to get SAP and adoption leave must fill in the 'Declaration' to confirm that they've chosen to get SAP and adoption leave not SPP and paternity leave.

Whoever chooses to get SPP and paternity leave must fill in the 'Dates for pay and leave' and 'Declaration' on form SC5, 'Statutory Paternity Pay/paternity leave when adopting from abroad' and give this to their employer. Part of this declaration confirms that they've chosen to get SPP and paternity leave not SAP and adoption leave.

### 7.3 Statutory Maternity/Adoption Pay (those not wishing to return to work following ML/AL)

Week 1 to 6		6 weeks	90% of your average weekly earnings
Week 7 to 39		33 weeks	Statutory maternity/adoption pay or 90% of your average weekly earnings (whichever is the lower)
Week 40 to 52		13 weeks	No pay

### 7.4 Occupational Maternity/Adoption Pay (those entitled through length of service and wishing to return to work following ML/AL)

Week 1 to 6	6 weeks	Higher rate SMP/SAP – 90% of average earnings
Week 7 to 18	12 weeks	Standard rate SMP/SAP <b>plus half of normal pay</b>
Week 19 to 39	21 weeks	Standard rate SMP/SAP
Week 40 to 52	13 weeks	No pay

### 7.5 Calculating Statutory Maternity Pay (SMP) and Statutory Adoption Pay (SAP)

SMP is worked out based on the average weekly pay received during the eight week period, 15 weeks before EWC (weeks 17 to 25 of pregnancy).

SAP is worked out based on the average weekly pay during the 8 weeks prior to the matching week (MW).

If the baby is born before or during the Qualifying Week (the 15th week, Saturday to Sunday, before the week the baby is due) the continuous employment rule is satisfied if they would have completed 26 weeks' continuous employment had it not been for the baby's early birth. The average weekly earnings would then be worked out using the birth date instead of the Qualifying Week.

For employees who are on fixed term contracts who meet the above eligibility but whose contract ceases during the maternity period, SMP will be paid throughout the maternity period, therefore the contract end date and date of end of SMP payments may be different. If the option for shared parental leave is taken up, SMP will cease and be replaced by Shared Parental Pay (ShPP).

The employee **must** tell Ryedale District Council if during their 39-week maternity pay period they:

- Leave the UK including Channel Islands and Isle of Man
- Are in legal custody
- Start work with a different employer (after childbirth)

## **7.6 What if the employee does not qualify for SMP/SAP?**

### **7.6.1 Maternity**

If the employee does not have 26 weeks continuous Local Government Service prior to the 15th week before the baby is due, they may be eligible for Maternity Allowance (MA) paid by the Department of Work & Pensions (DWP).

If the employee is not entitled to SMP, they will be sent a form SMP1 by Payroll. The form is to be sent to the Department for Work and Pensions along with the MAT B1.

The employee will still be required to notify the employer of the dates of ML as specified.

### **7.6.2 Adoption**

If the employee is not entitled to SAP, they will be sent a form SAP1 explaining why they cannot get Statutory Adoption Pay.

## **7.7 Employee Benefits**

It is important to note that as a salary sacrifice benefit reduces cash pay, the amount of salary that the employee pays National Insurance contributions on is also reduced. Staff who participate in a salary sacrifice scheme will have been informed through the terms and conditions of the scheme of the impact on any allowances including maternity/adoption. Any salary sacrifice applicable for the employee during this eight-week period will reduce entitlement to SMP/SAP.

In addition, employees remain responsible for payments due for the goods or services through salary sacrifice during ML/AL. However, salary deductions cannot be made during periods of SMP/SAP or nil pay and repayment arrangements will have to be set up through a separate agreement.

Further information is available via the [Everybody Benefits page](#). There are some practical considerations for employees to consider and these are set out in the relevant maternity/adoption notification letter.

## **8. Pension implications of maternity/adoption leave for those in LGPS – buy back**

During maternity/adoption leave employees will pay pension contributions calculated on the actual pay they receive. Therefore, during unpaid leave, pension contributions

will be lost. If there is a right to return to work employees also have the option of buying back any pension lost during the period of unpaid leave.

If employees decide to buy back pension 'lost' due to periods of unpaid leave within 30 days of returning to work after the period of leave, then the cost of this would be shared with Ryedale District Council paying two thirds of the cost and the employee paying one third. To find out how much it would cost to buy back pension, employees should contact employment support services on 01609 532190.

For more information see the [North Yorkshire pension fund](#) for accessing your online record.

## **9. Keeping in touch days (KIT days) – Maternity and Adoption**

The regulations allow an employee to undertake up to 10 days' work during ML/AL without bringing their ML/AL to an end. Whilst KIT days are covered by statute, they may only take place by agreement between the employer and the employee. Where a request is made it should not be unreasonably refused. Working for part of a day (even one hour) will count as one KIT day and the employee will be paid for the hours worked at their contractual hourly rate. Payment will be offset against any maternity/adoption pay/allowance paid for that week. The employee will not lose any maternity or adoption related pay for working up to 10 days.

'Work' is defined as any work that is done under their contract of employment and this may include training or any activity undertaken for the purposes of keeping in touch with their workplace. However, Ryedale District Council cannot insist that an employee carries out work and equally the employee cannot insist that they are given work to do during this period under the KIT arrangements.

It should be noted that employees will not be able to carry out any work during the first two weeks following the birth of their child. This period is known as compulsory maternity leave that must be taken at this point.

KIT Forms should be used for recording keeping in touch days and MyView should be used to submit claims for payment for keeping in touch days. It is important to note that once an employee has used up the 10 KIT days if they then work again they will not receive their maternity or adoption benefits for that week; therefore, records must be kept to avoid this happening.

## **10. Additional employment**

If the employee works for another employer during the SMP period but before the baby is born, then SMP will continue to be paid. If the employee works for another employer during the SMP period but after the baby is born, Ryedale District Council will need to check whether the work undertaken for the other employer occurred during the 15<sup>th</sup> week before the baby was due.

If so, SMP should be paid as usual. If, however, the employee is working for another employer for which they did not work during the 15<sup>th</sup> week before the baby was due, Ryedale District Council will stop paying SMP from the start of the week that the employee works for the other employer. It is up to the employee to inform Ryedale

District Council that they are working for someone else during their statutory maternity pay period.

If an employee completes work for Ryedale District Council (not on a relief basis) in a different role which was not held prior to commencement of maternity leave this should be treated as a KIT day for that role. e.g. If the employee completes work as a Relief Ryecare Operator whilst on maternity leave they will effectively break their maternity leave and pay periods.

## **Paternity/Maternity Support Leave**

### **11. Entitlement**

If you are a father to be, same sex partner or will share the responsibility with a partner for bringing up a child, you may have the right to statutory paternity/maternity support leave and pay which is a maximum of two weeks. This includes those who are adopting a child. The entitlement is the same regardless of whether your partner has a multiple birth (e.g. twins).

Paternity/Maternity Support Leave will be paid at full pay, providing employees meet the qualifying criteria below.

You must take your leave in one go and this must be in full week blocks of either one or two weeks. A week is the same amount of days that you normally work in a week, e.g. if you only work on Mondays and Tuesdays a week is two days.

Leave cannot start before the birth of the baby and it must end within 56 days of the birth.

You are requested to give as much notice as reasonable practicable of the dates you wish to take paternity/maternity support leave to allow the service to plan, however rough dates in advance are acceptable (e.g. to commence the week after the baby's birth). You must give at least 28 days' notice in writing if you wish to change the dates of your leave.

To qualify for leave and pay, employees must:

- Have or expect to have responsibility for the child's upbringing;
- Be the biological father of the child or the birth parent's husband, civil partner or partner;
- Have worked continuously for their employer for 26 weeks ending with the 15th week before the baby is due (or the 'matching week' in the case of adoption).

The definition of 'partner' is quite strict, since it is defined as "someone who lives with the birth parent of the baby in an enduring family relationship but is not an immediate relative."

Employees must also have average weekly earnings at or above the lower earnings limit.

Only one period of leave can be taken however many children are born or placed for adoption at the same time.

A photocopy of the MATB1/Matching Certificate must be provided by the employee.

The notification of maternity, paternity or adoption leave form (available on BOB) must be completed by the manager and forwarded to Employment Support Services for actioning.

## **12. Leave for antenatal appointments**

Entitlement: All pregnant employees are entitled to paid time off to attend antenatal appointments. Time off for antenatal care should be paid at the employee's normal rate of pay. Antenatal care may include relaxation and parent craft classes, as well as medical examinations related to the pregnancy. The entitlement to paid time off for antenatal appointments applies regardless of the employee's length of service.

This paid entitlement is also extended to fathers and partners to attend up to two antenatal appointments. The employer can ask for appointment cards/evidence except for the very first appointment.

## **13. Miscarriage, still birth or death of a child (in relation to paternity leave)**

Employees still qualify for paternity leave and pay if the baby is either:

- Stillborn from 24 weeks of pregnancy
- Born alive at any point in the pregnancy but later dies

Further information on parental bereavement leave is also provided at section 18.

## **Shared Parental Leave (ShPL) and Pay**

### **14. Shared Parental Leave**

ShPL and ShPP is available to employees who are expecting a baby or adoption placement, from the date of the baby's birth or the adoption of a child, subject to eligibility. The leave must be taken before the child's first birthday or one year from the adoption date. The birth parent/primary adopter can share the leave with their partner if they're also eligible for ShPL, and choose how much of the leave each of them will take.

Employees are encouraged to discuss their potential plans regarding ShPL at the earliest opportunity, to enable the organisation to support them effectively.

#### **14.1 Who is eligible for ShPL?**

ShPL can only be used by two people. The birth parent/adopter and one of the following:

- The father of the child (in the case of birth) or the spouse
- Civil partner or partner of the child's birth parent/adopter

Additionally, an employee seeking to take ShPL must satisfy each of the following criteria:

- Birth parent/adopter must be/have been entitled to statutory maternity/adoption leave or have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption allowances.
- The employee must still be working for the organisation at the start of each period of ShPL.
- The employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15<sup>th</sup> week before the EWC/matching date.
- The employee's partner must meet the 'employment and earnings test' requiring them (in the 66 weeks leading up to EWC/matching date) to have worked for at least 26 weeks and earned an average of at least £30 a week in any 13 of those weeks.
- The employee must correctly notify their line manager of their entitlement and provide evidence as required.

#### **14.2 What is the entitlement?**

The number of weeks available is calculated using the birth parent's/adopter's entitlement to maternity/adoption leave, which allows up to 52 weeks leave. The birth parent/adopter can reduce this entitlement; they and/or their partner can opt in to the ShPL and take any remaining weeks as ShPL.

If the birth parent/adopter is not entitled to maternity/adoption leave, but is entitled to SMP, SAP or MA they must reduce their entitlement to less than 39 weeks.

If such a birth parent chooses to reduce their statutory maternity pay or maternity allowance period and take fewer than 39 weeks of pay or allowance, then their employed partner could take the untaken weeks as shared parental leave if they are eligible for leave. In this case, the number of weeks of pay or allowance must be deducted from 52 weeks to calculate the number of weeks of shared parental leave that will be available for the partner to take.

#### **14.3 When can ShPL begin?**

The birth parent can take ShPL after they have taken the legally required two weeks of ML immediately following the birth of the child. The adopter can take ShPL after taking at least two weeks of AL.

The father/partner/spouse can take ShPL immediately following the birth/placement of the child, but may first choose to exhaust any PL entitlements.

If a birth parent/adopter gives notice to curtail their maternity/adoption entitlement, then the partner can take leave while the birth parent/adopter is still using their maternity/adoption allowance.

#### **14.4 Giving notice of the intention to take ShPL**

Employees must give at least eight weeks' notice to their employer of their intent to take ShPL. This notice must be in writing, and include:

- The name of the employee
- The name of the other parent
- The start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of ShPL available
- The date on which the child is expected to be born, and the actual date of birth, or in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the adoption placement date
- The amount of ShPL the employee and their partner each intend to take
- A non-binding indication of when the employee expects to take the leave

Variation is only permitted by mutual consent of both parents, and leave already booked can only be varied with eight weeks' notice of the change.

#### **14.5 What information must be provided by the employee?**

Employees must provide the line manager with a signed declaration stating:

- That they meet, or will meet the eligibility conditions and are entitled to take ShPL.
- That the information they have given is accurate.
- If they are not the birth parent/adopter they must confirm that they are either the father of the child, or are the spouse, civil partner or partner of the birth parent/adopter.
- That should they cease to be eligible they will immediately inform the organisation.

Ryedale District Council may, within 14 days of the ShPL entitlement notification being given, request:

- The name and business address of the partner's employer (where the partner is self-employed their contact details must be given instead).
- In the case of biological parents, a copy of the child's birth certificate (or where one has not been issued, a declaration as to the time and place of birth).
- In the case of an adopted child, documentary evidence of the name and the address of the adoption agency, the date of the matching notification and the date which the child is expected to be placed for adoption.

The organisation reserves the right to investigate further where there is cause to believe that a fraudulent claim has been made. Any investigation would be carried out in accordance with usual Ryedale District process and without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

#### **14.6 Booking ShPL**

In addition to notifying the employer of the intention to take ShPL, the employee must also give notice to take the leave. In many cases, this will be done at the same time. The correct notification must be given at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

Employees have the right to submit no more than three notifications specifying leave periods they are intending to take. Each notification may contain either:

- A single period of weeks of leave or
- Two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

ShPL can only be taken in complete weeks, but it may begin on any day of the week. A response will be provided to the employee no later than the 14<sup>th</sup> day after the leave request was made and will be responded to in writing.

#### **14.7 Continuous leave notifications**

A notification can be for a period of continuous leave which means a notification of a number of weeks taken in an unbroken period of leave e.g. six weeks in a row. Employees can take a continuous block of leave so long as it does not exceed the total number of weeks of ShPL available to them and the correct notice period has been given.

#### **14.8 Discontinuous leave notifications**

A single notification may contain a request for two or more periods of discontinuous leave, which means asking for a set number of weeks over a period, with breaks in between e.g. employee takes six weeks of ShPL, and then works every other week for a period of three months.

It is not a statutory right to have periods of discontinuous leave. All requests will be carefully considered, weighing up the potential benefits to the employee and to the organisation against any adverse effects to the service.

If a notification request for discontinuous leave is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block. If the option of a single continuous block is taken, the employee has until the 19<sup>th</sup> day from the original date of notification to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a leave date the leave will begin on the date specified in the original notification.

## **14.9 Commencing ShPL**

It will generally commence on the employee's chosen start date. However, if the baby arrives early, the leave can start and notice be given as soon as practically possible. It must end no later than one year after the birth/placement of the child. Any ShPL not taken by this point will be lost.

## **14.10 Varying ShPL**

Employees are permitted to vary or cancel an agreed and booked period of ShPL provided that they advise their line manager in writing at least eight weeks before the start of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

Variation/cancellation notifications will usually count as a new notification, thus reducing the employee's right to book/vary leave by one. Exceptions to this will be changes due to early births, or as a result of the organisation requesting the change and it being agreed by the employee. Any variation will be confirmed in writing by the organisation.

## **14.11 What happens on return to work?**

Ryedale District Council will have confirmed the return date in writing to the employee, and the employee will be expected to return to work on the next working date after this date, unless they notify the organisation otherwise.

If the employee has been off for no more than 26 weeks they will be eligible to return to the same job. If the employee has been off for more than 26 weeks they will be entitled to return to work in their original job if this is reasonably practicable, or to another job which is deemed to be suitable and appropriate. The work to be done should be suitable to them and appropriate to the circumstances and the capacity and place in which they are to be employed. The terms and conditions of employment should not be less favourable to them than if they had been able to return to the job in which they were originally employed.

If the employee also takes a period of unpaid leave of four weeks or less this will have no effect on their right to return to the same job as they occupied before taking the last period of leave, if the aggregate weeks of maternity/paternity/adoption and ShPL do not exceed 26 weeks.

If the employee takes a period of unpaid parental leave of 5 weeks, even if the aggregate weeks of maternity/paternity/adoption and ShPL do not exceed 26 weeks, the employee will be entitled to return to the same job unless this is not possible, then the employee will be entitled to return to work in their original job if this is reasonably practicable, or to another job which is deemed to be suitable and appropriate. The work to be done should be suitable to them and appropriate to the circumstances and the capacity and place in which they are to be employed. The terms and conditions of employment should not be less favourable to them than if they had been able to return to the job in which they were originally employed.

To avoid potential underpayments, line managers should inform Employment Support Services (ESS) as soon as possible (and ideally before the payroll deadline) once a return to work date has been agreed with the employee.

#### **14.12 ShPL in touch days (SPLiT days)**

Each parent will be entitled to up to 20 keep in touch days, plus the birth parent will also have her entitlement of 10 maternity leave keep in touch days. This work will be paid at the employee's hourly contractual rate.

### **15. Shared parental pay (ShPP)**

#### **15.1 What are the arrangements for pay during ShPL?**

Eligible employees may be entitled to take up to 37 weeks Shared Parental Pay (ShPP) while taking SPL. The amount available will depend on the amount by which the birth parent/adopter reduces their maternity/adoption pay period or maternity allowance period.

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:

Birth parent/adopter must be/have been entitled to statutory maternity/adoption pay/maternity allowance, and must have reduced their maternity/adoption pay/maternity allowance pay period.

- The employee must intend to care for the child during the week in which ShPP is payable.
- The employee must have an average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the due date/matching date are not less than the lower earnings limit in force for national insurance contributions.
- The employee must remain in continuous employment until the first week of ShPP has begun.
- The employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to take SPL.

In addition, any notice that advises of entitlement for ShPP must include:

- The start and end dates of any maternity/adoption pay or maternity allowance.
- The total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP.

- A signed declaration from the employee confirming that the information they have given is accurate, that they will meet, the criteria for ShPP and that they will immediately inform the organisation should they cease to be eligible.

ShPP is paid at is paid at the rate of £151.20 per week or 90 per cent of an employee’s average weekly earnings, whichever is lower (the rate of pay will be set by the Government for each relevant tax year).

## 16. Unpaid parental leave

### Eligibility

Eligibility	Entitlement
Each child	18 weeks up to the child’s 18 <sup>th</sup> birthday.
Each adopted child	18 weeks up to the child’s 18 <sup>th</sup> birthday.
Each child in receipt of disability living allowance	18 weeks up to the child’s 18 <sup>th</sup> birthday.

### Eligibility

Employees qualify if all of these apply:

- they’ve worked within the organisation for more than a year
- they’re named on the child’s birth or adoption certificate or they have or expect to have [parental responsibility](#)
- they’re not self-employed or a ‘worker’, eg an agency worker or contractor
- they’re not a foster parent (unless they’ve secured parental responsibility through the courts)
- the child is under 18

Employers can ask for proof (like a birth certificate) as long as it’s reasonable to do so, eg they can’t ask for proof each time an employee requests leave.

### Arrangements

Eligible employees can take unpaid parental leave to look after their child’s welfare. This may include but is not limited to in order to spend more time with your children, look at new schools, settle children into new childcare arrangements or spend more time with the family such as visiting grandparents.

Leave should be taken in blocks or multiples of one week (except for parents of children in receipt of disability living allowance, where leave can be taken in periods of one day or more), with a maximum four weeks leave in any year. A year is based on the birth date of the child. Employees should give 21 days’ notice of their request to take leave.

Managers can postpone when this leave is taken up to a maximum six months for business reasons, except for requests to take leave immediately after a child is born or placed for adoption.

Where qualifying employees wish to take leave to begin on the date on which the child is born or adopted, a minimum of 28 days' notice is required before the beginning of the expected week of childbirth and should specify the duration of the period of leave to be taken.

If the leave is not to be taken immediately after the birth or adoption of a child, then the employer may postpone it if they consider that the 'operation of its business would be unduly disrupted' if the employee took leave during that period. The employer must agree with the employee to allow the same length of leave to begin no later than six months after the commencement of the postponed period.

Any period of unpaid parental leave not exceeding four weeks that is taken within a period of shared parental leave will not count towards the 26-week period, which is the time at which employees are entitled to return to the same job they left.

## **17. Surrogacy**

Surrogates are the legal birth parent of any child they carry, unless they sign a parental order after they give birth transferring their right to the intended parents. The person who gives birth is always treated as the legal birth parent and has the right to keep the child, even if they're not genetically related.

Surrogacy contracts aren't enforced by UK law, even if a contract has been signed with the intended parents and they've paid for any expenses.

The child's legal father or 'second parent' is the surrogate's husband or civil partner unless legal rights are transferred to someone else or the surrogate's husband/civil partner didn't give permission to their wife/partner.

Every pregnant employee has the right to 52 weeks' maternity leave and to return to their job after this. What a birth parent does after the child is born has no impact on their right to maternity leave.

## **18. Parental Bereavement Leave and Pay**

Parental bereavement leave is time off to deal with the death of a child, if they die under the age of 18 or are stillborn after 24 weeks' pregnancy.

Eligible parents have a right to 2 weeks':

- Statutory Parental Bereavement Leave, if they're an employee
- Statutory Parental Bereavement Pay, if they're an employee or worker

This right applies to the:

- biological parent

- adoptive parent, if the child was living with them
- person who lived with the child and had responsibility for them, for at least 4 weeks before they died
- 'intended parent' – due to become the legal parent through surrogacy
- partner of the child's parent, if they live with the child and the child's parent in an enduring family relationship

## **Parental Bereavement Leave**

Parents have a right to take Statutory Parental Bereavement Leave if:

- they're classed as an employee
- their child dies under the age of 18 or is stillborn after 24 weeks' pregnancy
- Employees have this right from the day they start their job.

Statutory Parental Bereavement Leave can be taken in the 56 weeks following their child's death.

If more than 1 child dies, the employee is entitled to 2 weeks' Statutory Parental Bereavement Leave for each child.

Anyone classed as a worker is not entitled to Statutory Parental Bereavement Leave. But they might be entitled to 2 weeks' Statutory Parental Bereavement Pay for time they take off.

## **Taking Statutory Parental Bereavement Leave**

An employee can choose to take either 1 or 2 weeks' leave.

If an employee takes 2 weeks, this can be taken in one go, or as 2 separate weeks. For example, they could take 1 week immediately after the death, and take the other week later on.

The leave must end within 56 weeks of the child's death. The date of the child's death is the first day of the 56 weeks.

## **Giving notice to take leave**

An employee must tell their employer (give 'notice') to use Statutory Parental Bereavement Leave.

To give notice, the employee must tell their employer:

- when they want the leave to start
- whether they want to take 1 or 2 weeks leave
- the date their child died

This notice does not have to be in writing.

The rules for giving notice depend on how long it's been since their child died.

#### Taking leave in the first 8 weeks

If it's within 8 weeks (56 days) of their child dying, an employee can start their leave as soon as they give notice.

They must tell their employer before they start their leave. This can be on the first day of leave as long it's before they're due to start work. For example, if they've started work and give notice to start their leave straight away, Statutory Parental Bereavement Leave must start the following day.

They can also cancel the leave, as long as they tell their employer before their leave starts. This can be on the day their leave is due to start, as long it's before they're usually due to start work. Any cancelled leave can be taken later by giving notice again.

#### Taking leave after the first 8 weeks

If leave will be taken more than 8 weeks (56 days) since their child died, the employee must give their employer 1 week's notice:

- to take the leave
- if they want to cancel the leave

Any cancelled leave can be taken later by giving notice again.

### **Parental Bereavement Pay**

Employees and workers are entitled to 2 weeks' Statutory Parental Bereavement Pay if:

- their child dies under the age of 18 or is stillborn after 24 weeks' of pregnancy
- they were employed when their child died
- they'd worked for their employer for at least 26 weeks, on the Saturday before the child's death
- they earn on average at least £120 per week, before tax

### **Supporting Employees**

Your line manager and the Council will want to support you in the most appropriate way possible. The Council's Health Assured Employee Assistance Programme is also able to provide emotional support via a 24/7 helpline, staffed by BACP (British Association for Counselling and Psychotherapy) qualified counsellors. You can telephone Health Assured on 0800 030 5182.

## **Guidance for Line Managers**

### **Before an employee commences ML/AL**

The employee's line manager must complete the notification of maternity paternity or adoption leave form (available on BOB) and forward to Employment Support Services as soon as the employee is known to be entitled to SMP/SAP and/or OMP/OAP.

The employee's line manager must write to the employee within 28 days of receiving notification, stating the expected date of return from ML/AL. This will be based on the full entitlement to 52 weeks ML/AL.

**Maternity:** If ML has been triggered by childbirth or pregnancy-related absence the line manager will likewise confirm the expected date of return.

### **Health and safety risk assessment**

**Maternity:** Line managers should undertake the relevant risk assessments (Appendix 2) as soon as they are informed about the employee's pregnancy.

Advice on health and safety issues is contained in HSE guidance: <https://www.hse.gov.uk/pubns/indg373.htm>. Advice and guidance is also available from health and wellbeing services.

Where a significant risk has been identified that could damage the health or safety of a new or expectant birth parent or their unborn child, Ryedale District Council will take any protective or preventative measures required to eliminate it. If this would not avoid the risk, the following steps are carried out in the following order:

1. If it is reasonable to do so, alter working conditions or hours of work;
2. If the risk cannot be avoided in this way, employees should be offered suitable alternative employment. Suitable alternative employment means work which is both suitable in relation to the employee and appropriate for her to do in the circumstances and on existing or no less favourable terms and conditions;
3. If no suitable alternative work is available, the employee is 'suspended'. This means they are entitled to paid leave or, where suitable alternative work is available but refused by her, unpaid leave;

An employee can be suspended in this way at any time starting from when they become pregnant until either;

- The date on which they have notified their maternity leave starts;
- The start of the fourth week before the EWC if the above date has not been notified.

Should suspension occur after the fourth week before the EWC this will automatically trigger the start of maternity leave. Suspension on health and

safety grounds can also occur during any period from the end of the employee's maternity leave up until the sixth month from the date of childbirth (later if breastfeeding goes beyond this date).

**Night workers:** A new or expectant birth parent who works nights and provides a medical certificate showing that their health and safety is at risk if they continue with night work should be offered suitable alternative employment. Where that is not possible they will be given paid leave. This protective measure operates from when Ryedale District Council is aware that the employee is pregnant until the later or six months after the date of childbirth, or miscarriage where this occurs, or until breastfeeding stops.

### **During maternity leave – line manager contact with the employee**

The line manager will make 'reasonable contact' with the employee whilst on maternity leave. This would normally be to discuss return arrangements or to discuss work-related training that may be available or to inform the employee of any changes in the workplace that may affect them. Methods and regularity of contact should be agreed before maternity leave commences.

### **During maternity leave – employee detriment and dismissal**

An employee who is pregnant or on maternity leave is protected from detrimental treatment (being treated unfairly or less favourably due to an act, or deliberate failure to act by the employer) or dismissal because they:

- Have given birth to a child;
- Have taken, or seeks to take, ordinary and additional maternity leave;
- Have taken, or seeks to take, any of the benefits of ordinary maternity leave;
- Have been suspended from work on maternity health and safety grounds;
- Are being made redundant during their maternity leave and have not been offered any available suitable alternative employment.

Protection includes any detrimental treatment or dismissal after the employee failed to return to work following ordinary or additional maternity leave where either:

- The employee's manager did not notify them in accordance with the statutory duties or otherwise of the date on which their maternity leave would end and the employee reasonably believed that their maternity leave had not ended;
- The employee's manager gave them less than 28 days' notice of the date their maternity leave would end and it was not reasonably practicable for the employee to return on that date.

Employees can claim unfair dismissal regardless of length of service if related to pregnancy or maternity leave. An employee dismissed at any time during pregnancy or maternity leave is entitled to written reasons for dismissal (whether requested or not). Ryedale District Council can dismiss employees for reasons unrelated to pregnancy, such as conduct, and any such employee must have two year's continuous service to claim unfair dismissal at an employment tribunal.

To avoid potential underpayments line managers should inform Employment Support Services (ESS) as soon as possible (and ideally before the payroll deadline) once a return to work date has been agreed with the employee.

**MATERNITY RISK ASSESSMENT TEMPLATE FOR NEW OR EXPECTANT BIRTH PARENTS**

<b>Expectant or new birth parent risk assessment for:</b>		<b>Reference:</b>	
<b>Name:</b>	[Name of employee]	<b>Contact number:</b>	
<b>Job role: (including typical tasks)</b>		<b>Department / location:</b>	
<b>Expected date of delivery: (expectant birth parent)</b>		<b>Actual date of birth:</b> (new birth parents only)	
<b>Manager completing assessment:</b>		<b>Initial assessment date:</b>	
<b>Any health / wellbeing issues:</b>			

Risk assessment for an expectant or new birth parent: Hazards and controls

Significant Hazard	Perceived Nature of Risk	Generic Control Measures	Residual Risk Low/Medium/High	Additional Control Measures	Managers Comments
Display Screen Equipment	Increased susceptibility to musculoskeletal disorders and deep vein thrombosis (DVT)	DSE assessment to be undertaken if not already in place. Workstation should provide adequate adjustment to allow for increase in abdominal size. Advice on posture to prevent musculoskeletal problems. Adjust working practices to avoid continuous sitting at workstation (risk of DVT)		Review DSE assessment as pregnancy progresses	
Slips, Trips & Falls	Increased risk of injury due to physical change and or hormonal changes	Maintain high standards of housekeeping in work area. Individual may have difficulty negotiating stairs during later stages of pregnancy			
Lifting and Carrying Loads	Musculoskeletal injury Weakening of the skeletal structure	Reduce amount of physical work associated with task. Physical tasks become more difficult to achieve as pregnancy progresses Carrying heavy loads to be avoided			
Welfare	Access to toilets to protect against risk of infection and kidney disease	Provision of easy access to toilet facilities and more frequent breaks from work activity. Consideration should be given to providing access to quiet area where the individual can rest as necessary.		Agree provision of suitable rest facility as necessary	
Fatigue	Fatigue from prolonged standing or physical activity	Avoid long periods of time standing. Task modified to provide seating or more frequent rest periods.			

		Aspects of the work may need to be modified as physical capability will be reduced as a result of pregnancy			
Work Related Stress	Individual vulnerable to stress due to hormonal, psychological and physiological changes during pregnancy	Monitoring and reduction of risks in relation to work demands, relationships with colleagues / manager and requirements of the role.			
Temperature / Humidity	Lower tolerance to heat and humidity resulting in discomfort/faint	Temperature of the working environment to be suitably controlled. Individual may require access to fresh air for periods during the working day. Individual to have ready access to fresh drinking water		Provision of equipment to provide local heating / cooling as necessary	
Out of Hours Working	Long working hours or shift work patterns can affect the health of pregnant women.	Allowance made for tiredness and nausea at early stages of pregnancy. Consult with occupational health and individual on modification to working hours/avoidance of night work			
Personal Safety	Violence or fear of violence can increase	If there is a perceived risk of violence or threat of violence / abuse consideration needs to be given to modifying the role to reduce the risk to the individual and or make provision for staff to be available should support be required			

Access / Egress	Mobility may be impaired during later stages of pregnancy	Seek to modify the individuals work task to avoid walking significant distances or traversing flights of steps.		PEEP <sup>1</sup> assessment should be completed with health and safety team	
Working at Height	Loss of agility and or balance	Modify task to avoid aspects of working at height			
Travel Health	Increased medical risk from business travel. Poor posture / prolonged sitting increase risk of deep vein thrombosis (DVT) Risk from infectious diseases in some countries	<u>UK Travel</u> Travel arrangements should include adequate provision for rest breaks during the journey. Travel times chosen to reduce levels of fatigue. Carry out regular stretching exercises on flights. Drink sufficient fluids. The use of graded compression stockings. Loose-fitting clothing to avoid constriction of veins.			
		<u>International Travel</u> Health risks to be further assessed with advice from a medical practitioner / occupational health. Travel to be scheduled to avoid restrictions imposed by airlines on pregnant women (typically past 32 weeks). Carry out regular stretching exercises on flights. Drink sufficient fluids.			

<sup>1</sup> Personal Emergency Evacuation Plan

		The use of graded compression stockings. Loose-fitting clothing to avoid constriction of veins.			
Biological or	Exposure to certain biologicals e.g. bacteria, viruses, moulds, fungi.	New or Expectant birth parent must not be exposed to biological agents. Consider alternative tasks to working environment where exposure is recognized			
Chemical	Exposure to certain Chemicals; dust, fumes, gas vapour, mist, liquids solids, fibres	New or Expectant birth parent must not be exposed to chemical agents. Consider alternative tasks to working environment where exposure is recognized.			

**Risk assessment for an expectant or new birth parent: Further actions required**

**Risk assessment for an expectant or new birth parent: Risk Assessment Review**

Action to be taken to further reduce risk	Person responsible for completing action	Target completion date (Prioritized on risk)		Action closure	
		Date	Priority	Signature	Date
Review DSE assessment as pregnancy progresses	DSE Assessor				
Agree provision of suitable rest facility if necessary	Manager of work area				
Provision of equipment to provide local heating / cooling if necessary	Manager of work area / E&FM				
Additional procedures for lone working / working off site	Manager of work area				
PEEP assessment form to complete	Safety Adviser for the work area				
Seek advice from medical practitioner / Occupational Health before making International travel arrangements	Manager of work area				

	Date	Employee signature	Manager signature
Initial risk assessment completed:			
Proposed date for next assessment:			
Assessment reviewed on:			



## **Probation Policy and Procedure**

<b>Author</b>	Senior HR Business Partner
<b>SMB owner</b>	Head of HR
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## Contents

<b>Section</b>	<b>Subject</b>	<b>Page</b>
1	Policy	
1.1	Purpose	
1.2	Scope	
1.3	Length of Probationary Period	
1.4	Responsibilities and Expectations	
2.	Procedure	
2.1	Induction	
2.2	Length of Probationary Procedure	
2.3	Disabilities	
2.4	Misrepresentation of Skills/Qualifications	
2.5	Termination of Employment before the completion of the Probationary Period	
3.	The Review Process	
3.1	Achievement of performance Targets and Working Within the Council's Code of Conduct	
3.2	Unsatisfactory Performance	
3.3	Unsatisfactory Conduct	
3.4	The Final Review – 6 Months	
4.	Outcomes of the Final Review	
4.1	Confirmation of Appointment	
4.2	Extension of Probation Period	
4.3	Termination of Employment	
5.	Appeals	
5.1	Lodging and Appeal	
5.2	Appeal Conditions	
5.3	Appeal Process	

## **1. Policy**

### **1.1 Purpose**

Ryedale District Council values its employees and recognises that they are its greatest asset. We want all employees to perform well and feel valued.

The Council is committed to supporting all employees to get to grips with working at the Council and their new job. The general approach to probation is supportive and constructive, featuring feedback on performance, learning and development, team work and two-way communication.

The process has been designed to allow any issues that might prevent successful completion of the probation period to be identified and addressed in a timely fashion.

This policy is closely aligned with the Council's People and Culture Plan and supports our priorities, values and behaviours in delivering a robust and consistent approach to performance with clear expectations, so a supportive performance culture can develop and be embedded.

The policy is also designed to ensure that performance against job roles is achieved. As a public sector organisation, we must demonstrate effective and efficient use of resources. We therefore expect all employees to deliver against the remit and grading of their role.

The positive management by the line manager of a new employee during the probationary period, sets the tone for future performance management, for positive on-going relationships and assists in improving the overall standards and morale of the workforce. It also embeds the principles of feedback on performance, learning and development, team work and two-way communication as part of the employee's working life at Ryedale District Council.

Notwithstanding this general approach, Ryedale District Council is committed to the highest standards of performance, and will terminate a contract if the employee does not demonstrate satisfactory performance, including adherence to the Officer Code of Conduct, during their probationary period.

### **1.2 Scope**

The probationary period applies in a variety of circumstances.

First, it applies to all newly appointed employees.

The procedure applies to all new full-time, part-time and permanent and temporary employees of the Council, but does not apply to employees who have come into the Council as a result of a TUPE transfer.

Second, where an existing employee moves to another job within the Council, reviews will be scheduled to evaluate their performance and conduct in line with the

principles of the probationary process. In these circumstances where performance or conduct is identified as being unsatisfactory during, or at the end of, the probationary period this will be dealt with under either the Council's Capability or Disciplinary Procedures.

### **1.3 Length of probation**

All employees new to the Council will normally undertake a six month probationary programme (unless TUPE applies). This period may be extended in exceptional circumstances, if there are definite indicators that the employee will achieve the standard required, given further time; guidance should be sought from HR before the end of the original probation period. In most circumstances, the probationary period will be extended by 2 months where this is deemed necessary by the line manager in consultation with HR.

The probation period may be reduced to four weeks for contracts below six months. Where an employee has not attended work due to sickness absence, please contact HR for advice on how probationary periods should be extended/handled as this will be dealt with on a case by case basis.

### **1.4 Responsibilities and Expectations**

Employees are responsible for:

- engaging with the induction and probationary period processes and reaching the required level of performance
- Familiarising themselves with the organisation's rules, policies and procedures, particularly those relating to security, equal opportunities, conduct, discipline and grievance.
- Ensuring that they understand the probationary procedure.
- Ensuring that they are familiar with the standards and requirements of the job role, both those specified within the job description and how their role fits into the wider team and further organisational contribution;.
- Ensuring that they take an active part in the probation review meetings.
- Undertaking any learning and development activities agreed with the manager; this includes all mandatory training modules and familiarity with specified policies such as health and safety and safeguarding.

Managers are responsible for:

- Ensuring the employee is aware of this probation policy and procedure.
- Explaining the expected standard of performance, how performance will be monitored, and expected standards of conduct to the new employee.
- Completing probation reviews as appropriate for the new employee.
- Ensuring probation documentation is completed in a timely manner.
- Notifying the employee of any probation review meetings in advance so that both parties have time to prepare.

- Identifying any potential for the employee to fail to meet the standards required and taking appropriate action quickly whilst maintaining liaison with HR if appropriate.
- Ensuring that systems are in place to support and monitor the employee's work throughout the probationary period in order that they receive such assistance as is reasonable to fulfil the duties and responsibilities of the post.

## **2. Procedure**

### **2.1 Induction**

The importance of good induction for a new starter in assisting them to complete their probationary period satisfactorily cannot be underestimated. Quite apart from the obvious challenge of tackling a new role, there is also the need to become accustomed to a new organisation, a new environment and new colleagues. The purpose of induction is to support employees during this period and to help them quickly become fully integrated into the Council.

Managers are responsible for devising an induction programme, which explains the range of work, standards and expectations required by the Council of the employee. It is important that the manager checks that the employee fully understands the requirements of the job and the organisation's expectation of performance and expected behaviours.

### **2.2 Length of probationary period**

The probationary period will normally last for six months. Managers will conduct monthly review meetings, completing the probationary review form at Appendix A. At the six-month final review the employment shall be confirmed, unless the contract is to be terminated or in exceptional circumstances, the probation period is to be extended. The probation period may be reduced to four weeks for contracts below six months.

### **2.3 Disabilities**

Employees with disabilities should be monitored using the same procedure as for all other staff. However, in line with the Equality Act 2010, the need for any reasonable adjustments or more favourable treatment required by disabled employees must be considered at any time during the probationary period. In circumstances where a disability only becomes fully apparent once an employee has started in post it may be necessary to defer the probationary assessment until after all reasonable adjustments have been considered and implemented where appropriate. Occupational Health advice should be sought at the earliest opportunity.

Reasonable adjustments which are required to enable an employee to perform in their post must be implemented promptly. In all cases in which reasonable adjustments are or may be required the manager shall seek advice from Human Resources and shall invite the employee to a meeting, at which they may be

accompanied by a work colleague or trade union representative, giving at least five working days' notice, to discuss this.

## **2.4 Misrepresentation of Skills/Qualifications**

Where a probationary employee has misrepresented their skills, abilities and/or qualifications at interview, and it becomes apparent during the probationary period that they are unable to carry out the duties or requirements associated with the job, the manager will decide in conjunction with HR whether to terminate employment. In these circumstances the process set out at Section will 2.5 will apply.

## **2.5 Termination of employment before the completion of the Probationary Period**

If work performance, attendance or conduct falls short of acceptable standards with the effect that that it is not appropriate to continue employment it is possible to terminate employment at any point during the probationary period.

In all cases the employee must be invited to attend a meeting to be told how their performance, attendance or conduct is unsatisfactory and have the opportunity to give an explanation.

As dismissal will be considered, the manager must inform the employee of their right to be accompanied by a trade union representative or work colleague, should they so wish. The invitation to the meeting must be in writing, by letter or by email, and must give at least five working days' notice to the employee.

It is not the intention of this procedure that probationary employees should face dismissal as a result of allegations of minor misconduct which would not lead to the dismissal of any other employee. However, persistent acts of minor misconduct may lead to dismissal.

All employees must act in accordance with the values and behaviours of the Council; termination will be considered where non-compliance is consistently demonstrated during the probationary period.

Where, following this meeting it becomes clear that the probationary period will not be completed successfully, the manager shall inform the employee of their intention to recommend to HR and the appropriate Head of Service that the employee's contract be terminated. Confirmation of termination of employment will be provided in writing to the employee. The employee shall have a right of appeal in accordance with Section 5 of this procedure.

## **3. The Review Process**

### **3.1 Achievement of performance targets and working within the Council's Code of Conduct**

In line with the Council's performance review process, managers must commence monthly one-to-one meetings with employees as soon as they start employment.

Managers do not need to conduct separate one to one meetings (part of regular performance management) and probation meetings; the monthly meeting will act as both. These meetings should be set up in advance of the employee starting and their purpose covered as part of induction.

Employees should be given adequate notice of any proposal to vary the date of the review meeting.

The aim of the review process is to assess the employee's ability to carry out their job. A written record should be made of all meetings, shared with the employee and a copy placed on the employee file. For consistency, a template is provided to aid managers during these discussions (Appendix A).

The purpose of regular one-to-ones is to support the employee during their probation period so they understand their role, the conduct and behaviours expected of all employees, and the standards and measures of performance which they are required to deliver against. This is to give them every reasonable chance of completing the probation successfully.

The meeting should discuss what is going well, progress against objectives, any areas of concern and identification of next steps to support the employee during the probation period. Factors which the manager must consider include:

- Quality of work and performance
- Attitudes and motivation
- Conduct, behaviours, timekeeping and attendance
- Any training needs

If any issues arise from the discussions that suggest the employee may not be able to complete their probation period successfully, these should be raised with HR at this stage, and advice taken on any additional actions that need to be taken.

Factors which are potentially discriminatory under the terms of any of the equalities and discrimination legislation must not form part of the assessment review process. Where employees have a disability or a disability becomes apparent, the line manager must consider any reasonable adjustments in line with the Equality Act 2010.

### **3.2 Unsatisfactory performance**

At each stage the review discussion must cover the strengths, weaknesses and areas for improvement of the employee's performance. These must be discussed and noted, together with ways performance could be improved, as part of an improvement action plan. An assessment must be made as to whether the overall performance is satisfactory or unsatisfactory. Where performance is unsatisfactory, managers must:

- draw this to the attention of the employee

- discuss weaknesses and areas for development with the aim of establishing the reasons for poor performance and identifying strategies/training for improving that performance
- restate the standards required and the consequences of failure to meet those standards

An action plan may be used to detail what needs to take place to improve performance (Appendix B). Managers may also wish to seek the guidance from HR where there is unsatisfactory performance.

### **3.3 Unsatisfactory conduct**

Where there is evidence of persistent misconduct or serious/gross misconduct during the probationary period the matter will be addressed in accordance with section 2.5.

### **3.4 The final review – 6 months**

Prior to the final review the employee's line manager must consider whether the:

- employee's appointment should be confirmed;
- employee's probation period should be extended (exceptionally); or
- employee's contract should be terminated.

If the manager considers that the employee's conduct and / or performance is unsatisfactory, they must write to the employee at least one week prior to the final review meeting to inform them in advance of the reasons why this is the case.

Where dismissal or an extension of the probationary period is contemplated, the manager must inform the employee that they have a right to be accompanied at the final review meeting by a trade union representative or work colleague, should they so wish. It is the responsibility of the employee to notify their representative of the date and time of the meeting. In the event that the representative is unavailable the meeting may be postponed by up to five working days.

The final review must take place within one week of the employee having completed six months' service, unless there are extenuating circumstances. The employee's line manager must conduct the review meeting.

The purpose of the final review is to assess the employee's progress over the whole of the probation period and to reach a decision as to whether the employee's employment should be confirmed, whether exceptionally the probation period should be extended or whether the employee should be dismissed.

## **4. Outcomes at the final review**

### **4.1 Confirmation of appointment**

Where the appointment is to be confirmed, the manager should confirm this to the employee during the final review and note this on the form. A copy of the form must

be kept on the employee's file.

## **4.2 Extension of probation period**

There may be circumstances where it is appropriate to extend the probationary period for the following reasons:

- Through the employee's sickness or other authorised absence it has not been possible to assess performance
- An extension has been agreed in accordance with paragraph 2.4.1
- The employee has not performed satisfactorily but the manager has evidence to suggest that performance is likely to improve with a further period of probation

If the employee's manager concludes that the probationary period should be extended, this matter must be discussed with Human Resources. Where the manager and HR conclude that the probationary period should be extended, the following must be discussed with the employee and confirmed in writing:

- the reason for the extension
- details of any training that will be provided during the extension period
- the performance standards expected and the way in which it will be monitored
- that if performance still fails to meet expectations at the end of the period the employment will be terminated.

The probation period should not normally be extended by more than two months.

Where, following the extended probationary period the employee's performance has improved substantially, the appointment should be confirmed, the employee formally notified and from then on be subject to the Council's appraisal, staff development and other HR policies and procedures.

## **4.3 Termination of employment**

Where, following the six-month formal review or extended probationary period, it becomes clear that the probationary period will not be successfully completed, the manager shall inform the employee of their intention to recommend to HR and the appropriate Head of Service, that the employee's contract be terminated. Confirmation of termination of employment will be provided in writing to the employee along with details of their right of appeal against termination of employment by virtue of failure to successfully complete a probationary period. Dismissal will be with notice pay and may be actioned as a payment in lieu of notice (PILON).

## **5. Appeals**

### **5.1 Lodging an appeal**

Where an employee's contract is terminated, the employee will be advised of their right to appeal the decision.

The appeal must be made in writing, to the Head of Service, within 10 working days of receipt of written confirmation of the decision.

Where possible, the appeal will be heard before the dismissal takes effect. The appeal will normally be heard within the notice period.

Appeals against dismissals will be heard by the Appeals Panel of the Policy and Resources Committee. The employee has the right to be represented at an appeal by a trade union representative or work colleague.

## **5.2 Appeal conditions**

The grounds of appeal should relate to one or more of the following:

**The procedure:** An appeal can be lodged on the grounds that the probation procedure was applied unfairly or inaccurately.

**The facts:** An appeal can be lodged where the employee believes that the facts of the case did not support the decision made; that the facts considered were not relevant; that the facts were not substantiated; or where there are new facts/evidence which needs to be considered that has come to light subsequent to the hearing

**The decision:** An appeal can be lodged where the employee feels that the sanction received is disproportionate to the charges found taking into account the evidence/mitigating circumstances presented.

## **5.3 The appeal process**

The employee will be given 5 working days' notice of the appeal hearing along with any documents which will be presented at the appeal. The employee must provide their own documents within two working days of the hearing.

The panel will review whether the original decision was reasonable having reviewed the grounds for appeal. The Appeal Panel shall have discretion to go into as much detail as they consider necessary in order to give a fair hearing to the appeal, within the grounds of the appeal. The decision at appeal shall be either to uphold the original decision to dismiss, or to confirm the employee in employment. This decision shall be final and will be confirmed in writing.

Notes shall be taken at an appeal hearing and a copy provided to the employee within 10 working days of the hearing.

**Probationary Review**

Name of Employee:	
Name of Manager:	
Probation Review No.	
Date:	

Reviews should take place every 4 weeks/1 month during the course of the probationary period.

What has gone well?	
What areas are to be concentrated on next?	
What areas of improvement need to be made?	
Any areas of concern	

Signature (employee):

Signature (manager):

Date:

**Probation: Action Plan**

<b>Employee Name</b>		<b>Job Title</b>	
<b>Line Manager</b>		<b>Department</b>	
<b>Probation Review No</b>		<b>Meeting Date</b>	

	<b>Issue</b> (be clear if this is something that the employee is doing or not doing and what is and isn't acceptable)	<b>Action/Training to take place</b>	<b>Milestones</b>	<b>People involved</b>	<b>Review date</b>
1					
2					
3					
4					

<b>Actions agreed (Manager signature)</b>		<b>Date</b>	
<b>Actions agreed (Employee signature)</b>		<b>Date</b>	